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Amendment of section 44AB.

20. In section 44AB of the Income-tax Act,—

(*i*) before the first proviso, the following proviso shall be inserted, namely:—

"Provided that this section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (*1*) of section 44AD and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year;";

(*ii*) in the first proviso, for the words "Provided that", the words "Provided further that" shall be substituted;

(*iii*) in the second proviso, for the words "Provided further", the words "Provided also" shall be substituted.

Amendment of section 44AD.

21. In section 44AD of the Income-tax Act, in sub-section (*1*), the following proviso shall be inserted, namely:—

'Provided that this sub-section shall have effect as if for the words "eight per cent.", the words "six per cent." had been substituted, in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in sub-section (*1*) of section 139 in respect of that previous year.'.

Amendment of section 45.

22. In section 45 of the Income-tax Act, after sub-section (*5*) and the *Explanation* thereto, the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely:—

'(*5A*) Notwithstanding anything contained in sub-section (*1*), where the capital gain arises to an assessee, being an individual or a Hindu undivided family, from the transfer of a capital asset, being land or building or both, under a specified agreement, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset:

Provided that the provisions of this sub-section shall not apply where the assessee transfers his share in the project on or before the date of issue of the said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section, shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.

Explanation.—For the purposes of this sub-section, the expression—

(*i*) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;

(*ii*) "specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;

(*iii*) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both.'.

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Amendment of section 47.

23. In section 47 of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*a*) after clause (*viia*), the following clause shall be inserted, namely:—

"(*viiaa*) any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident;";

(*b*) after clause (*xa*), the following clause shall be inserted, namely:—

"(*xb*) any transfer by way of conversion of preference shares of a company into equity shares of that company;".

Amendment of section 48.

24. In section 48 of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*a*) in the fifth proviso, for the word "subscribed", the word "held" shall be substituted;

(*b*) in the *Explanation*, in clause (*iii*), for the figures, letters and words "1st day of April, 1981", the figures, letters and words "1st day of April, 2001" shall be substituted.

Amendment of section 49

25. In section 49 of the Income-tax Act,—

(*a*) in sub-section (*1*), in clause (*iii*), in sub-clause (*e*), after the word, brackets, figures and letter "clause (*vib*)", the words, brackets, figures and letter "or clause (*vic*)" shall be inserted with effect from the 1st day of April, 2018;

(*b*) after sub-section (*2AD*), the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely:—

"(*2AE*) Where the capital asset, being equity share of a company, became the property of the assessee in consideration of a transfer referred to in clause (*xb*) of section 47, the cost of acquisition of the asset shall be deemed to be that part of the cost of the preference share in relation to which such asset is acquired by the assessee.",

(*c*) after sub-section (*2AE*) as so inserted, the following sub-section shall be inserted, namely:—

"(*2AF*) Where the capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, became the property of the assessee in consideration of a transfer referred to in clause (*xix*) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating plan of the scheme of the mutual fund.";

(*d*) in sub-section (*4*), after the words, brackets, figures and letter "or clause (*viia*)" at both the places where they occur, the words, brackets and figure "or clause (*x*)" shall be inserted;

28 of 2016

(*e*) after sub-section (*5*) [as inserted by section 30 of the Finance Act, 2016], the following sub-sections shall be inserted with effect from the 1st day of April, 2018, namely:—

'(*6*) Where the capital gain arises from the transfer of a specified capital asset referred to in clause (*c*) of the *Explanation* to clause (*37A*) of section 10, which has been transferred after the expiry of two years from the end of the financial year in which the possession of such asset was handed over to the assessee, the cost of acquisition of such specified capital asset shall be deemed to be its stamp duty value as on the last day of the second financial year after the end of the financial year in which the possession of the said specified capital asset was handed over to the assessee.

Explanation.—For the purposes of this sub-section, "stamp duty value" means the value adopted or assessed or assessable by any authority of the State Government for the purpose of payment of stamp duty in respect of an immovable property.

(*7*) Where the capital gain arises from the transfer of a capital asset, being share in the project, in the form of land or building or both, referred to in sub-section (*5A*) of section 45, not being the capital asset referred to in the proviso to the said sub-section, the cost of acquisition of such asset, shall be the amount which is deemed as full value of consideration in that sub-section.':

(*f*) after sub-section (*7*) as so inserted, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2016, namely:—

"(*8*) Where the capital gain arises from the transfer of an asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and the tax has been paid thereon in accordance with the provisions of Chapter XII-EB, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (*2*) of section 115TD.".

Insertion of new section 50CA.

26. After section 50C of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2018, namely:—

Special provision for full value of consideration for transfer of share other than quoted share

'50CA. Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, the value so determined shall, for the purposes of section 48, be deemed to be the full value of consideration received or accruing as a result of such transfer.

Explanation.—For the purposes of this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.'.

Amendment of section 54EC.

27. In section 54EC of the Income-tax Act, in sub-section (*3*), in the *Explanation*, in clause (*ba*), for the words and figures "the Companies Act, 1956" occurring at the end, the words and figures "the Companies Act, 1956; or any other bond notified by the Central Government in this behalf" shall be substituted with effect from the 1st day of April, 2018. 1 of 1956.

Amendment of section 55

28. In section 55 of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*A*) in sub-section (*1*), in clause (*b*), in sub-clause (*2*), in item (*i*), for the figures, letters and words "1st day of April, 1981", the figures, letters and words "1st day of April, 2001" shall be substituted;

(*B*) in sub-section (*2*), in clause (*b*), for the figures, letters and words "1st day of April, 1981" wherever they occur, the figures, letters and words "1st day of April, 2001" shall be substituted.

Amendment of section 56.

29. In section 56 of the Income-tax Act, in sub-section (*2*),—

(*I*) in clause (*vii*), after the figures, letters and words "1st day of October, 2009", the words, figures and letters "but before the 1st day of April, 2017" shall be inserted;

(*II*) in clause (*viia*), after the figures, letters and words "1st day of June, 2010", the words, figures and letters "but before the 1st day of April, 2017" shall be inserted;

(*III*) after clause (*ix*), the following clause shall be inserted, namely:—

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'(*x*) where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017,—

(*a*) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(*b*) any immovable property,—

(*A*) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(*B*) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Provided that where the date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of agreement may be taken for the purposes of this sub-clause:

Provided further that the provisions of the first proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of agreement for transfer of such immovable property:

Provided also that where the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (*15*) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections;

(*c*) any property, other than immovable property,—

(*A*) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(*B*) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that this clause shall not apply to any sum of money or any property received—

(*I*) from any relative, or

(*II*) on the occasion of the marriage of the individual; or

(*III*) under a will or by way of inheritance; or

(*IV*) in contemplation of death of the payer or donor, as the case may be, or

(*V*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*VI*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*VII*) from or by any trust or institution registered under section 12A or section 12AA; or

(*VIII*) by any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10; or

(*IX*) by way of transaction not regarded as transfer under clause (*i*) or clause (*ii*) or clause (*via*) or clause (*viaa*) or clause (*vib*) or clause (*vic*) or clause (*vica*) or clause (*vicb*) or clause (*vid*) or clause (*vii*) of section 47; or

(*X*) from an individual by a trust created or established solely for the benefit of relative of the individual.

Explanation.—For the purposes of this clause, the expressions "assessable", "fair market value", "jewellery", "property", "relative" and "stamp duty value" shall have the same meanings as respectively assigned to them in the *Explanation* to clause (*vii*).'.

Amendment of section 58.

30. In section 58 of the Income-tax Act, in sub-section (*1A*), for the word, brackets, figures and letter "sub-clause (*iia*)", the words, brackets, figures and letters "sub-clauses (*ia*) and (*iia*)" shall be substituted with effect from the 1st day of April, 2018.

Amendment of section 71.

31. In section 71 of the Income-tax Act, after sub-section (*3*), the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely:—

'(*3A*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), where in respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to set off such loss, to the extent the amount of the loss exceeds two lakh rupees, against income under the other head.'.

Substitution of new section for section 79.

32. For section 79 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2018, namely:—

Carry forward and set off of losses in case of certain companies.

"79. Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place in a previous year,—

(*a*) in the case of a company not being a company in which the public are substantially interested and other than a company referred to in clause (*b*), no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent. of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent. of the voting power on the last day of the year or years in which the loss was incurred:

(*b*) in the case of a company, not being a company in which the public are substantially interested but being an eligible start-up as referred to in section 80-IAC, the loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, if, all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred,—

(*i*) continue to hold those shares on the last day of such previous year; and

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(*ii*) such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated:

Provided that nothing contained in this section shall apply to a case where a change in the said voting power and shareholding takes place in a previous year consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making such gift:

Provided further that nothing contained in this section shall apply to any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent. shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.".

Amendment of section 80CCD.

33. In section 80CCD of the Income-tax Act, in sub-section (*1*), in clause (*b*), for the words "ten per cent.", the words "twenty per cent." shall be substituted with effect from the 1st day of April, 2018.

Amendment of section 80CCG

34. In section 80CCG of the Income-tax Act, after sub-section (*4*), the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely:—

"(*5*) Notwithstanding anything contained in sub-sections (*1*) to (*4*), no deduction under this section shall be allowed in respect of any assessment year commencing on or after the 1st day of April, 2018:

Provided that an assessee, who has acquired listed equity shares or listed units of an equity oriented fund in accordance with the scheme referred to in sub-section (*1*) and claimed deduction under this section for any assessment year commencing on or before the 1st day of April, 2017, shall be allowed deduction under this section till the assessment year commencing on the 1st day of April, 2019, if he is otherwise eligible to claim the deduction in accordance with the other provisions of this section.".

Amendment of section 80G.

35. In section 80G of the Income-tax Act, in sub-section (*5D*), for the words "ten thousand rupees", the words "two thousand rupees" shall be substituted with effect from the 1st day of April, 2018.

Amendment of section 80-IAC.

28 of 2016.

36. In section 80-IAC of the Income-tax Act [as inserted by section 42 of the Finance Act, 2016], in sub-section (*2*), for the words "five years", the words "seven years" shall be substituted with effect from the 1st day of April, 2018.

Amendment of section 80-IBA.

28 of 2016.

37. In section 80-IBA of the Income-tax Act [as inserted by section 44 of the Finance Act, 2016], with effect from the 1st day of April, 2018,—

(*a*) in sub-section (*2*),—

(*i*) in clause (*b*), for the words "three years", the words "five years" shall be substituted;

(*ii*) in clauses (*c*) and (*f*), for the expression "built-up area" wherever they occur, the words "carpet area" shall be substituted;

(*iii*) the words "or within the distance, measured aerially, of twenty-five kilometres from the municipal limits of these cities" wherever they occur shall be omitted;

(*b*) in sub-section (*6*), for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "carpet area" shall have the same meaning as assigned to it in clause (*k*) of section 2 of the Real Estate (Regulation and Development) Act, 2016.'.

16 of 2016.

Amendment of section 87A.

38. In section 87A of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*a*) for the words "five hundred thousand rupees", the words "three hundred fifty thousand rupees" shall be substituted;

(*b*) for the words "five thousand rupees" [as substituted by section 46 of the Finance Act, 2016], the words "two thousand five hundred rupees" shall be substituted. 28 of 2016.

Amendment of section 90.

39. In section 90 of the Income-tax Act, after *Explanation* 3, the following *Explanation* shall be inserted with effect from the 1st day of April, 2018, namely:—

"*Explanation* 4.—For the removal of doubts, it is hereby declared that where any term used in an agreement entered into under sub-section (*1*) is defined under the said agreement, the said term shall have the same meaning as assigned to it in the agreement; and where the term is not defined in the said agreement, but defined in the Act, it shall have the same meaning as assigned to it in the Act and explanation, if any, given to it by the Central Government.".

Amendment of section 90A.

40. In section 90A of the Income-tax Act, after *Explanation* 3, the following *Explanation* shall be inserted with effect from the 1st day of April, 2018, namely:—

"*Explanation* 4.—For the removal of doubts, it is hereby declared that where any term used in an agreement entered into under sub-section (*1*) is defined under the said agreement, the said term shall have the same meaning as assigned to it in the agreement; and where the term is not defined in the said agreement, but defined in the Act, it shall have the same meaning as assigned to it in the Act and explanation, if any, given to it by the Central Government.".

Amendment of section 92BA

41. In section 92BA of the Income-tax Act, clause (*i*) shall be omitted.

Insertion of new section 92CE.

42. After section 92CD of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2018, namely:—

Secondary adjustment in certain cases.

'92CE. (*1*) Where a primary adjustment to transfer price,—

(*i*) has been made *suo motu* by the assessee in his return of income;

(*ii*) made by the Assessing Officer has been accepted by the assessee;

(*iii*) is determined by an advance pricing agreement entered into by the assessee under section 92CC;

(*iv*) is made as per the safe harbour rules framed under section 92CB; or

(*v*) is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90 or section 90A for avoidance of double taxation,

the assessee shall make a secondary adjustment:

Provided that nothing contained in this section shall apply, if,—

(*i*) the amount of primary adjustment made in any previous year does not exceed one crore rupees; and

(*ii*) the primary adjustment is made in respect of an assessment year commencing on or before the 1st day of April, 2016.

(2) Where, as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee, the excess money which is available with its associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed in such manner as may be prescribed.

(3) For the purposes of this section.—

(i) "associated enterprise" shall have the meaning assigned to it in sub-section (1) and sub-section (2) of section 92A;

(ii) "arm's length price" shall have the meaning assigned to it in clause (ii) of section 92F;

(iii) "excess money" means the difference between the arm's length price determined in primary adjustment and the price at which the international transaction has actually been undertaken;

(iv) "primary adjustment" to a transfer price, means the determination of transfer price in accordance with the arm's length principle resulting in an increase in the total income or reduction in the loss, as the case may be, of the assessee;

(v) "secondary adjustment" means an adjustment in the books of account of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.'.

Insertion of new section 94B.

43. After section 94A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2018, namely:—

Limitation on interest deduction in certain cases.

'**94B.** (1) Notwithstanding anything contained in this Act, where an Indian company, or a permanent establishment of a foreign company in India, being the borrower, incurs any expenditure by way of interest or of similar nature exceeding one crore rupees which is deductible in computing income chargeable under the head "Profits and gains of business or profession" in respect of any debt issued by a non-resident, being an associated enterprise of such borrower, the interest shall not be deductible in computation of income under the said head to the extent that it arises from excess interest, as specified in sub-section (2):

Provided that where the debt is issued by a lender which is not associated but an associated enterprise either provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an associated enterprise.

(2) For the purposes of sub-section (1), the excess interest shall mean an amount of total interest paid or payable in excess of thirty per cent. of earnings before interest, taxes, depreciation and amortisation of the borrower in the previous year or interest paid or payable to associated enterprises for that previous year, whichever is less.

(3) Nothing contained in sub-section (1) shall apply to an Indian company or a permanent establishment of a foreign company which is engaged in the business of banking or insurance.

(4) Where for any assessment year, the interest expenditure is not wholly deducted against income under the head "Profits and gains of business or profession", so much of the interest expenditure as has not been so deducted, shall be carried forward to the following assessment year or assessment years, and it shall be allowed as a deduction against the profits and gains, if any, of any business or profession carried on by it and assessable for that assessment year to the extent of maximum allowable interest expenditure in accordance with sub-section (2):

Provided that no interest expenditure shall be carried forward under this sub-section for more than eight assessment years immediately succeeding the assessment year for which the excess interest expenditure was first computed.

(5) For the purposes of this section, the expressions—

(*i*) "associated enterprise" shall have the meaning assigned to it in sub-section (*1*) and sub-section (*2*) of section 92A.

(*ii*) "debt" means any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession";

(*iii*) "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.'.

Amendment of section 115BBDA

44. In section 115BBDA of the Income-tax Act [as inserted by section 52 of the Finance Act, 2016], with effect from the 1st day of April, 2018,— 28 of 2016

(*i*) in sub-section (*1*), for the words "an assessee, being an individual, a Hindu Undivided Family or a firm", the words "a specified assessee" shall be substituted;

(*ii*) for sub-section (*3*), the following *Explanation* shall be substituted, namely:—

'*Explanation.*—For the purposes of this section,—

(*a*) "dividend" shall have the meaning assigned to it in clause (22) of section 2 but shall not include sub-clause (*e*) thereof;

(*b*) "specified assessee" means a person other than,—

(*i*) a domestic company; or

(*ii*) a fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (*iv*) or sub-clause (*v*) or sub-clause (*vi*) or sub-clause (*via*) of clause (*23C*) of section 10; or

(*iii*) a trust or institution registered under section 12A or section 12AA.'.

Insertion of new section 115 BBG.

45. After section 115BBF of the Income-tax Act [as inserted by section 54 of the Finance Act, 2016], the following section shall be inserted with effect from the 1st day of April, 2018, namely:— 28 of 2016

Tax on income from transfer of carbon credits.

'115 BBG. (*1*) Where the total income of an assessee includes any income by way of transfer of carbon credits, the income-tax payable shall be the aggregate of—

(*a*) the amount of income-tax calculated on the income by way of transfer of carbon credits, at the rate of ten per cent.; and

(*b*) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (*a*).

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (*a*) of sub-section (*1*).

Explanation.—For the purposes of this section, "carbon credit" in respect of one unit shall mean reduction of one tonne of carbon dioxide emissions or emissions of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price.'.

Amendment of section 115JAA.

46. In section 115JAA of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*a*) in sub-section (*2A*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where the amount of tax credit in respect of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, allowed against the tax payable under the provisions of sub-section (*1*) of section 115JB exceeds the amount of such tax credit admissible against the tax payable by the assessee on its income in accordance with the other provisions of this Act, then, while computing the amount of credit under this sub-section, such excess amount shall be ignored.";

(*b*) in sub-section (*3A*), for the words "tenth assessment year", the words "fifteenth assessment year" shall be substituted.

Amendment of section 115JB

47. In section 115JB of the Income-tax Act,—

(*i*) in sub-section (*2*),—

(*a*) for the words "profit and loss account" wherever they occur, the words "statement of profit and loss" shall be substituted;

1 of 1956
18 of 2013.

(*b*) for the words and figures "the Companies Act, 1956" wherever they occur, the words and figures "the Companies Act, 2013" shall be substituted;

(*c*) in clause (*a*), for the words and figures "Part II of Schedule VI", the word and figures "Schedule III" shall be substituted;

(*d*) in clause (*b*), for the words, brackets and figures "proviso to sub-section (*2*) of section 211", the words, brackets and figures "second proviso to sub-section (*1*) of section 129" shall be substituted;

(*e*) in the first proviso, for the word and figures "section 210", the word and figures "section 129" shall be substituted;

(*ii*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

'(*2A*) For a company whose financial statements are drawn up in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015, the book profit as computed in accordance with *Explanation* 1 to sub-section (*2*) shall be further—

(*a*) increased by all amounts credited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";

(*b*) decreased by all amounts debited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";

(*c*) increased by amounts or aggregate of the amounts debited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10;

(*d*) decreased by all amounts or aggregate of the amounts credited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10;

Provided that nothing contained in clause (*a*) or clause (*b*) shall apply to the amount credited or debited to other comprehensive income under the head "Items that will not be re-classified to profit or loss" in respect of—

(*i*) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38, or

(*ii*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109.

Provided further that the book profit of the previous year in which the asset or investment referred to in the first proviso is retired, disposed, realised or otherwise transferred shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the first proviso for the previous year or any of the preceding previous years and relatable to such asset or investment.

(*2B*) In the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company under this section.

(*2C*) For a company referred to in sub-section (*2A*), the book profit of the year of convergence and each of the following four previous years, shall be further increased or decreased, as the case may be, by one-fifth of the transition amount:

Provided that the book profit of the previous year in which the asset or investment referred to in sub-clauses (*B*) to (*F*) of clause (*iii*) of the *Explanation* is retired, disposed, realised or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clauses relatable to such asset or investment:

Provided further that the book profit of the previous year in which the foreign operation referred to in sub-clause (*F*) of clause (*iii*) of the *Explanation* is disposed or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clauses relatable to such foreign operations.

Explanation.—For the purposes of this sub-section, the expression—

(*i*) "year of convergence" means the previous year within which the convergence date falls;

(*ii*) "convergence date" means the first day of the first Indian Accounting Standards reporting period as defined in the Indian Accounting Standards 101;

(*iii*) "transition amount" means the amount or the aggregate of the amounts adjusted in the other equity (excluding capital reserve and securities premium reserve) on the convergence date but not including the following:—

(*A*) amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;

(*B*) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;

(*C*) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109 adjusted on the convergence date;

(*D*) adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost in accordance with paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;

(*E*) adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost in accordance with paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and

(*F*) adjustments relating to cumulative translation differences of a foreign operation in accordance with paragraph D13 of the Indian Accounting Standards 101 on the convergence date.';

(*iii*) in *Explanation* 1,—

(*a*) for the words "net profit", the word "profit" shall be substituted;

(*b*) for the words "profit and loss account" wherever they occur, the words "statement of profit and loss" shall be substituted;

(*c*) in clause (*k*), for the words "profit or loss account", the words "statement of profit and loss" shall be substituted;

(*iv*) in *Explanation* 3,—

(*a*) for the words, brackets and figures "proviso to sub-section (2) of section 211 of the Companies Act, 1956", the words, brackets and figures "second proviso to sub-section (*l*) of section 129 of the Companies Act, 2013" shall be substituted;

1 of 1956.
18 of 2013.

(*b*) for the words "profit and loss account", the words "statement of profit and loss" shall be substituted;

(c) for the words and figures "Part II and Part III of Schedule VI to the Companies Act, 1956", the words and figures "Schedule III to the Companies Act, 2013" shall be substituted.

1 of 1956.
18 of 2013.

Amendment of section 115JD.

48. In section 115JD of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*a*) in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that where the amount of tax credit in respect of any income-tax paid in any country or specified territory outside India under section 90 or section 90A or section 91, allowed against the alternate minimum tax payable, exceeds the amount of the tax credit admissible against the regular income-tax payable by the assessee, then, while computing the amount of credit under this sub-section, such excess amount shall be ignored.";

(*b*) in sub-section (4), for the words "tenth assessment year", the words "fifteenth assessment year" shall be substituted.

Amendment of section 119.

49. In section 119 of the Income-tax Act, in sub-section (2), in clause (*a*), after the figures "271", the figures and letters ",271C, 271CA" shall be inserted.

Amendment of section 132.

50. In section 132 of the Income-tax Act,—

(*i*) in sub-section (*1*), after the fourth proviso, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1962, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.";

(*ii*) in sub-section (*1A*), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the reason to suspect, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.";

(*iii*) after sub-section (*9A*), the following sub-sections shall be inserted, namely:—

"(*9B*) Where, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer, for reasons to be recorded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purposes, the provisions of the Second Schedule shall, *mutatis mutandis*, apply.

(*9C*) Every provisional attachment made under sub-section (*9B*) shall cease to have effect after the expiry of a period of six months from the date of the order referred to in sub-section (*9B*).

(*9D*) The authorised officer may, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, make a reference to a Valuation Officer referred to in section 142A, who shall estimate the fair market value of the property in the manner provided under that section and submit a report of the estimate to the said officer within a period of sixty days from the date of receipt of such reference.";

(*iv*) for *Explanation* 1, the following *Explanation* shall be substituted, namely:—

'*Explanation* 1 —For the purposes of sub-sections (*9A*), (*9B*) and (*9D*), with respect to "execution of an authorisation for search", the provisions of sub-section (2) of section 153B shall apply.'.

Amendment of section 132A

51. In section 132A of the Income-tax Act, in sub-section (*1*), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal.".

Amendment of section 133.

52. In section 133 of the Income-tax Act,—

(*i*) in the first proviso, for the words "and the Principal Commissioner or Commissioner", the words "or the Principal Commissioner or Commissioner or the Joint Director or Deputy Director or Assistant Director" shall be substituted;

(*ii*) in the second proviso, after the words "Director or Principal Commissioner or Commissioner", the words ", other than the Joint Director or Deputy Director or Assistant Director," shall be inserted.

Amendment of section 133A.

53. In section 133A of the Income-tax Act, in sub-section (*1*),—

(*i*) in the long line, for the portion beginning with "at which a business or profession" and ending with "such business or profession—", the following shall be substituted, namely:—

"at which a business or profession or an activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, and require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—";

(*ii*) in the *Explanation*, after the words "business or profession" wherever they occur, the words "or activity for charitable purpose" shall be inserted.

Amendment of section 133C.

54. In section 133C of the Income-tax Act, after sub-section (*2*) and before the *Explanation*, the following sub-section shall be inserted, namely:—

"(*3*) The Board may make a scheme for centralised issuance of notice and for processing of information or documents and making available the outcome of the processing to the Assessing Officer.".

Amendment of section 139.

55. In section 139 of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*i*) in sub-section (*4C*),—

(*I*) after clause (*c*), the following clause shall be inserted, namely:—

"(*ca*) person referred to in clause (*23AAA*) of section 10;";

(*II*) after clause (*eb*), the following clauses shall be inserted, namely:—

"(*eba*) Investor Protection Fund referred to in clause (*23EC*) or clause (*23ED*) of section 10;

(*ebb*) Core Settlement Guarantee Fund referred to in clause (*23EF*) of section 10:";

(*III*) after clause (*f*), the following clause shall be inserted, namely:—

"(*fa*) Board or Authority referred to in clause (*29A*) of section 10;",

(*IV*) in the long line occurring after clause (*h*), after the words "association or institution,", the words "person or" shall be inserted;

28 of 2016.

(*ii*) in sub-section (*5*) [as substituted by section 67 of the Finance Act, 2016], the words "the expiry of one year from" shall be omitted.

Insertion of new section 139AA.

56. After section 139A of the Income-tax Act, the following section shall be inserted, namely.—

Quoting of Aadhaar number.

'139AA. (*1*) Every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017, quote Aadhaar number—

(*i*) in the application form for allotment of permanent account number;

(*ii*) in the return of income:

Provided that where the person does not possess the Aadhaar number, the Enrolment ID of Aadhaar application form issued to him at the time of enrolment shall be quoted in the application for permanent account number or, as the case may be, in the return of income furnished by him.

(2) Every person who has been allotted permanent account number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette:

Provided that in case of failure to intimate the Aadhaar number, the permanent account number allotted to the person shall be deemed to be invalid and the other provisions of this Act shall apply, as if the person had not applied for allotment of permanent account number.

(3) The provisions of this section shall not apply to such person or class or classes of persons or any State or part of any State, as may be notified by the Central Government in this behalf, in the Official Gazette.

Explanation.—For the purposes of this section, the expressions—

(*i*) "Aadhaar number", "Enrolment" and "resident" shall have the same meanings respectively assigned to them in clauses (*a*), (*m*) and (*v*) of section 2 of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016; 18 of 2016.

(*ii*) "Enrolment ID" means a 28 digit Enrolment Identification Number issued to a resident at the time of enrolment.'.

Amendment of section 140A.

57. In section 140A of the Income-tax Act, with effect from the 1st day of April, 2018,—

(*i*) in sub-section (*1*),—

(*a*) in the long line,—

(*A*) after the words "together with interest", the words "and fee" shall be inserted;

(*B*) for the words "and interest", the words ", interest and fee" shall be substituted;

(*b*) in the *Explanation*, for the words "and interest as aforesaid, the amount so paid shall first be adjusted towards", the words ", interest and fee as aforesaid, the amount so paid shall first be adjusted towards the fee payable and thereafter towards" shall be substituted;

(*ii*) in sub-section (*3*), for the words "or interest or both" at both the places where they occur, the words "interest or fee" shall be substituted

Amendment of section 143

58. In section 143 of the Income-tax Act,—

(*a*) in sub-section (*1*), with effect from the 1st day of April, 2018,—

(*i*) in clause (*b*), for the words "and interest", the words ", interest and fee" shall be substituted;

(*ii*) in clause (*c*),—

(*A*) for the words "and interest", the words ", interest and fee" shall be substituted;

(*B*) for the words "or interest", the words ", interest or fee" shall be substituted;

(*iii*) in the first proviso, for the words "or interest", the words ", interest or fee" shall be substituted;

(*b*) for sub-section (*1D*) [as substituted by section 68 of the Finance Act, 2016], the following shall be substituted, namely:— 28 of 2016.

"(*1D*) Notwithstanding anything contained in sub-section (*1*), the processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (2):

Provided that the provisions of this sub-section shall not apply to any return furnished for the assessment year commencing on or after the 1st day of April, 2017.".

(*c*) in sub-section (*3*), for the portion beginning with the words "On the day specified in the notice" and ending with the words, brackets and letters "issued under clause (*ii*) of ", the words "On the day specified in the notice issued under" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2016.

59. In section 153 of the Income-tax Act,— Amendment of section 153

(*i*) in sub-section (*1*), the following provisos shall be inserted, namely:—

'Provided that in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2018, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted:

Provided further that in respect of an order of assessment relating to the assessment year commencing on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted ';

(*ii*) in sub-section (*2*), the following proviso shall be inserted, namely:—

'Provided that where the notice under section 148 is served on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.';

(*iii*) in sub-section (*3*), the following proviso shall be inserted, namely:—

'Provided that where the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted.';

(*iv*) in sub-section (*5*), after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2016, namely:—

"Provided further that where an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the order giving effect to the said order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 shall be made within the time specified in sub-section (*3*).":

(*v*) in sub-section (*9*), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2016, namely:—

"Provided that where a notice under sub-section (*1*) of section 142 or sub-section (*2*) of section 143 or section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in *Explanation* 1, such assessment or reassessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016.", 28 of 2016

(*vi*) in *Explanation* 1, in the third proviso, the figures and letter "153B," shall be omitted.

Amendment of section 153A.

60. In section 153A of the Income-tax Act, in sub-section (*1*),—

(*i*) in clause (*a*), first proviso and the second proviso, after the words "six assessment years" wherever they occur, the words "and for the relevant assessment year or years" shall be inserted;

(*ii*) in clause (*b*), after the words "requisition is made", the words "and of the relevant assessment year or years" shall be inserted;

(*iii*) in the third proviso, after the words "requisition is made", the words "and for the relevant assessment year or years" shall be inserted;

(*iv*) after the third proviso, the following shall be inserted, namely:—

'Provided also that no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—

(*a*) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;

(*b*) the income referred to in clause (*a*) or part thereof has escaped assessment for such year or years; and

(*c*) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

Explanation 1.—For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.

Explanation 2.—For the purposes of the fourth proviso, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.'.

Amendment of section 153B.

61. In section 153B of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) in clause (*a*), after the words "six assessment years", the words "and for the relevant assessment year or years" shall be inserted;

(*ii*) for the second and third provisos, the following provisos shall be substituted, namely:—

'Provided further that in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was

executed during the financial year commencing on the 1st day of April, 2018,—

(*i*) the provisions of clause (*a*) or clause (*b*) of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted;

(*ii*) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of eighteen months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

Provided also that in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on or after the 1st day of April, 2019,—

(*i*) the provisions of clause (*a*) or clause (*b*) of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted;

(*ii*) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of twelve months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

Provided also that in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (*1*) of section 92CA is made, the period available for making an order of assessment or reassessment shall be extended by twelve months:

Provided also that in case where during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (*1*) of section 92CA is made, the period available for making an order of assessment or reassessment in case of such other person shall be extended by twelve months.';

(*b*) in sub-section (*3*), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2016, namely:—

"Provided that where a notice under section 153A or section 153C has been issued prior to the 1st day of June, 2016 and the assessment has not been completed by such date due to exclusion of time referred to in the *Explanation*, such assessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016 ";

28 of 2016.

(*c*) in the *Explanation*, after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment or reassessment, as the case may be, shall, after the exclusion of the period under sub-section (*4*) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.".

Amendment of section 153C

62. In section 153C of the Income-tax Act, in sub-section (*1*),—

(*a*) in the long line, after the words "total income of such other person", the words "for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and" shall be inserted;

(*b*) in the second proviso, after the words "requisition is made", the words, brackets, figures and letter "and for the relevant assessment year or years as referred to in sub-section (*1*) of section 153A" shall be inserted.

Amendment of section 155.

63. In section 155 of the Income-tax Act, after sub-section (*14*), the following sub-section shall be inserted with effect from the 1st day of April, 2018, namely.—

"(*14A*) Where in the assessment for any previous year or in any intimation or deemed intimation under sub-section (*1*) of section 143 for any previous year, credit for income-tax paid in any country outside India or a specified territory outside India referred to in section 90, section 90A or section 91 has not been given on the ground that the payment of such tax was under dispute, and if subsequently such dispute is settled; and the assessee, within six months from the end of the month in which the dispute is settled, furnishes to the Assessing Officer evidence of settlement of dispute and evidence of payment of such tax along with an undertaking that no credit in respect of such amount has directly or indirectly been claimed or shall be claimed for any other assessment year, the Assessing Officer shall amend the order of assessment or any intimation or deemed intimation under sub-section (*1*) of section 143, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto:

Provided that the credit of tax which was under dispute shall be allowed for the year in which such income is offered to tax or assessed to tax in India.".

Insertion of new section 194-IB.

Payment of rent by certain individuals or Hindu undivided family.

64. After section 194-IA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2017, namely:—

'194-IB. (*1*) Any person, being an individual or a Hindu undivided family (other than those referred to in the second proviso to section 194-I), responsible for paying to a resident any income by way of rent exceeding fifty thousand rupees for a month or part of a month during the previous year, shall deduct an amount equal to five per cent. of such income as income-tax thereon.

(*2*) The income-tax referred to in sub-section (*1*) shall be deducted on such income at the time of credit of rent, for the last month of the previous year or the last month of tenancy, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

(*3*) The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

(*4*) In a case where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

Explanation.—For the purposes of this section, "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both.'.

Insertion of new section 194-IC

65. After section 194-IB of the Income-tax Act as so inserted, the following section shall be inserted, namely:—

Payment under specified agreement

"194-IC. Notwithstanding anything contained in section 194-IA, any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under the agreement referred to in sub-section (*5A*) of section 45, shall at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax thereon.".

Amendment of section 194J

66. In section 194J of the Income-tax Act, after the third proviso and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of June, 2017, namely:—

'Provided also that the provisions of this section shall have effect, as if for the words "ten per cent.", the words "two per cent." had been substituted in the case of a payee, engaged only in the business of operation of call centre.'.

Amendment of section 194LA.

67. In section 194LA of the Income-tax Act, after the proviso and before the *Explanation*, the following proviso shall be inserted, namely:—

"Provided further that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.".

30 of 2013.

Amendment of section 194LC

68. In section 194LC of the Income-tax Act, in sub-section (*2*),—

(*a*) in clause (*i*), with effect from the 1st day of April, 2018,—

(*A*) in sub-clauses (*a*) and (*c*), for the figures, letters and words "1st day of July, 2017", the figures, letters and words "1st day of July, 2020" shall be substituted;

(*B*) in the long line, for the word "and", the word "or" shall be substituted;

(*b*) after clause (*i*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2016, namely:—

"(*ia*) in respect of monies borrowed by it from a source outside India by way of issue of rupee denominated bond before the 1st day of July, 2020, and".

Amendment of section 194LD

69. In section 194LD of the Income-tax Act, in sub-section (*2*), for the figures, letters and words "1st day of July, 2017", the figures, letters and words "1st day of July, 2020" shall be substituted with effect from the 1st day of April, 2018.

Amendment of section 197A

70. In section 197A of the Income-tax Act, with effect from the 1st day of June, 2017,—

(*a*) in sub-section (*1A*), after the word, figures and letter "section 194A" at both the places where they occur, the words, figures and letter "or section 194D" shall be inserted;

(*b*) in sub-section (*1C*), after the word, figures and letter "section 194A" at both the places where they occur, the words, figures and letter "or section 194D" shall be inserted.

621

Amendment of section 204.

71. In section 204 of the Income-tax Act, after clause (*iia*), the following clause shall be inserted, namely:—

"(*iib*) in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof;".

Amendment of section 206C

72. In section 206C of the Income-tax Act,—

(*a*) sub-section (*1D*) shall be omitted;

(*b*) sub-section (*1E*) shall be omitted;

(*c*) in sub-sections (*2*), (*3*), (*3A*) and sub-section (*9*), the words, brackets, figure and letter "or sub-section (*1D*)" wherever they occur, shall be omitted;

(*d*) in sub-section (*6A*), in the first proviso, the words, brackets, figure and letter ", other than a person referred to in sub-section (*1D*)," shall be omitted;

(*e*) in sub-section (*7*), in the proviso, the words, brackets, figure and letter ", other than a person referred to in sub-section (*1D*)," shall be omitted,

(*f*) in the *Explanation* occurring after sub-section (*11*),—

(*A*) in clause (*aa*),—

(*I*) sub-clause (*ii*) shall be omitted;

(*II*) after sub-clause (*ii*), the following sub-clause shall be inserted, namely:—

"(*iii*) sub-section (*1F*) means a person who obtains in any sale, goods of the nature specified in the said sub-section, but does not include,—

(*A*) the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or

(*B*) a local authority as defined in *Explanation* to clause (*20*) of section 10; or

(*C*) a public sector company which is engaged in the business of carrying passengers.";

(*B*) clause (*ab*) shall be omitted

(*C*) in clause (*c*), for the words, brackets, figures and letters "or sub section (*1D*) are sold or services referred to in sub-section (*1D*) are provided", the words "are sold" shall be substituted.

Insertion of new section 206CC.

73. After section 206CB of the Income-tax Act, the following section shall be inserted, namely:—

Requirement to furnish Permanent Account Number by collectee.

'206CC. (*1*) Notwithstanding anything contained in any other provisions of this Act, any person paying any sum or amount, on which tax is collectible at source under Chapter XVII-BB (herein referred to as collectee) shall furnish his Permanent Account Number to the person responsible for collecting such tax (herein referred to as collector), failing which tax shall be collected at the higher of the following rates, namely:—

(*i*) at twice the rate specified in the relevant provision of this Act, or

(*ii*) at the rate of five per cent.

(*2*) No declaration under sub-section (*1A*) of section 206C shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(*3*) In case any declaration becomes invalid under sub-section (*2*), the collector shall collect the tax at source in accordance with the provisions of sub-section (*1*).

(*4*) No certificate under sub-section (*9*) of section 206C shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(*5*) The collectee shall furnish his Permanent Account Number to the collector and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(*6*) Where the Permanent Account Number provided to the collector is invalid or does not belong to the collectee, it shall be deemed that the collectee has not furnished his Permanent Account Number to the collector and the provisions of sub-section (*1*) shall apply accordingly.

(*7*) The provisions of this section shall not apply to a non-resident who does not have permanent establishment in India.

Explanation.—For the purposes of this sub-section, the expression "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.'

Amendment of section 211.

74. In section 211 of the Income-tax Act, in sub-section (*1*), in clause (*b*), for the words, figures and letters "an eligible assessee in respect of an eligible business referred to in section 44AD", the words, brackets, figures and letters "an assessee who declares profits and gains in accordance with the provisions of sub-section (*1*) of section 44AD or sub-section (*1*) of section 44ADA, as the case may be" shall be substituted.

Amendment of section 234C.

75. In section 234C of the Income-tax Act, in sub-section (*1*),—

(*i*) in clause (*a*), for the words, figures and letters "an eligible assessee in respect of the eligible business referred to in section 44AD", the words, brackets and letter "the assessee referred to in clause (*b*)" shall be substituted;

(*ii*) in clause (*b*), for the words, figures and letters "an eligible assessee in respect of the eligible business referred to in section 44AD", the words, brackets, figures and letters "an assessee who declares profits and gains in accordance with the provisions of sub-section (*1*) of section 44AD or sub-section (*1*) of section 44ADA, as the case may be" shall be substituted;

(*iii*) in the first proviso,—

(*A*) in clause (*c*), for the words "first time," occurring at the end, the words "first time; or" shall be substituted;

(*B*) after clause (*c*) and before the long line, the following clause shall be inserted, namely:—

"(*d*) income of the nature referred to in sub-section (*1*) of section 115BBDA,";

(*C*) in the long line, after the words, brackets and letter "or clause (*c*)", the words, brackets and letter "or clause (*d*)" shall be inserted.

Insertion of new section 234F. Fee for default in furnishing return of income.

76. After section 234E of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2018, namely:—

"234F. (*1*) Without prejudice to the provisions of this Act, where a person required to furnish a return of income under section 139, fails to do so within the time prescribed in sub-section (*1*) of the said section, he shall pay, by way of fee, a sum of,—

(*a*) five thousand rupees, if the return is furnished on or before the 31st day of December of the assessment year;

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(*b*) ten thousand rupees in any other case:

Provided that if the total income of the person does not exceed five lakh rupees, the fee payable under this section shall not exceed one thousand rupees.

(*2*) The provisions of this section shall apply in respect of return of income required to be furnished for the assessment year commencing on or after the 1st day of April, 2018.".

Insertion of new section 241A.

77. After section 241 of the Income-tax Act [as it stood immediately before its omission by section 81 of the Finance Act, 2001], the following section shall be inserted, namely:— 14 of 2001.

Withholding of refund in certain cases.

"241A. For every assessment year commencing on or after the 1st day of April, 2017, where refund of any amount becomes due to the assessee under the provisions of sub-section (*1*) of section 143 and the Assessing Officer is of the opinion, having regard to the fact that a notice has been issued under sub-section (*2*) of section 143 in respect of such return, that the grant of the refund is likely to adversely affect the revenue, he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, as the case may be, withhold the refund up to the date on which the assessment is made.".

Amendment of section 244A.

78. In section 244A of the Income-tax Act,—

(*i*) after sub-section (*1A*), the following sub-section shall be inserted, namely:—

"(*1B*) Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XVII-B, such deductor shall be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one-half per cent for every month or part of a month comprised in the period, from the date on which—

(*a*) claim for refund is made in the prescribed form; or

(*b*) tax is paid, where refund arises on account of giving effect to an order under section 250 or section 254 or section 260 or section 262,

to the date on which the refund is granted.";

(*ii*) in sub-section (*2*),—

(*a*) after the words "to the assessee", the words "or the deductor, as the case may be," shall be inserted;

(*b*) after the word, brackets, figure and letter "or (*1A*)", the word, brackets, figure and letter "or (*1B*)" shall be inserted.

Amendment of section 245A

79. In section 245A of the Income-tax Act, in clause (*b*), in the *Explanation*, in clause (*iv*), for the words "two years from the end of the relevant assessment year", the words, brackets and figures "the time specified for making assessment under sub-section (*1*) of section 153" shall be substituted.

Amendment of section 245N.

80. In section 245N of the Income-tax Act, for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "applicant" means—

(*A*) any person who—

(*I*) is a non-resident referred to in sub-clause (*i*) of clause (*a*); or

(*II*) is a resident referred to in sub-clause (*ii*) of clause (*a*); or

(*III*) is a resident referred to in sub-clause (*iia*) of clause (*a*) falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify; or

(*IV*) is a resident falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify in this behalf; or

(*V*) is referred to in sub-clause (*iv*) of clause (*a*),

and makes an application under sub-section (*1*) of section 245Q;

(*B*) an applicant as defined in clause (*c*) of section 28E of the Customs Act, 1962; 52 of 1962.

(*C*) an applicant as defined in clause (*c*) of section 23A of the Central Excise Act, 1944; 1 of 1944.

(*D*) an applicant as defined in clause (*b*) of section 96A of the Finance Act, 1994;', 32 of 1994

81. In section 245-O of the Income-tax Act,— Amendment of section 245-O.

(*a*) in sub-section (*3*),—

(*i*) in clause (*a*), after the words "a Judge of the Supreme Court", the words "or the Chief Justice of a High Court or for at least seven years a Judge of a High Court" shall be inserted;

(*ii*) for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) a revenue Member—

(*i*) from the Indian Revenue Service, who is, or is qualified to be, a Member of the Board; or

(*ii*) from the Indian Customs and Central Excise Service, who is, or is qualified to be, a Member of the Central Board of Excise and Customs,

on the date of occurrence of vacancy;";

(*iii*) in clause (*d*), after the words "Government of India", the words "on the date of occurrence of vacancy" shall be inserted;

(*b*) after sub-section (*6*), the following sub-sections shall be inserted, namely:—

"(*6A*) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the senior-most Vice-chairman shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(*6B*) In case the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Vice-chairman shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.".

82. In section 245Q of the Income-tax Act, in sub-section (*1*), after the words "advance ruling under this Chapter", the words, figures and letters "or under Chapter V of the Customs Act, 1962 or under Chapter IIIA of the Central Excise Act, 1944 or under Chapter VA of the Finance Act, 1994" shall be inserted. Amendment of section 245Q. 52 of 1962. 1 of 1944. 32 of 1994

83. In section 253 of the Income-tax Act, in sub-section (*1*), in clause (*f*), after the words "authority under", the words, brackets and figures "sub-clause (*iv*) or sub-clause (*v*) or" shall be inserted. Amendment of section 253.

Insertion of new section 269ST. Mode of undertaking transactions.

84. After section 269SS of the Income-tax Act, the following section shall be inserted, namely:—

'269ST. No person shall receive an amount of two lakh rupees or more—

(*a*) in aggregate from a person in a day; or

(*b*) in respect of a single transaction; or

(*c*) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that the provisions of this section shall not apply to—

(*i*) any receipt by—

(*a*) Government;

(*b*) any banking company, post office savings bank or co-operative bank;

(*ii*) transactions of the nature referred to in section 269SS;

(*iii*) such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purposes of this section,—

(*a*) "banking company" shall have the same meaning as assigned to it in clause (*i*) of the *Explanation* to section 269SS;

(*b*) "co-operative bank" shall have the same meaning as assigned to it in clause (*ii*) of the *Explanation* to section 269SS.'.

Insertion of new section 271DA

Penalty for failure to comply with provisions of section 269ST.

85. After section 271D of the Income-tax Act, the following section shall be inserted, namely:—

"271DA. (*1*) If a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of such receipt:

Provided that no penalty shall be imposable if such person proves that there were good and sufficient reasons for the contravention.

(2) Any penalty imposable under sub-section (*1*) shall be imposed by the Joint Commissioner.".

Amendment of section 271F.

86. In section 271F of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of April, 2018, namely:—

"Provided that nothing contained in this section shall apply to and in relation to the return of income required to be furnished for any assessment year commencing on or after the 1st day of April, 2018.".

Insertion of new section 271J.

Penalty for furnishing incorrect information in reports or certificates.

87. After section 271-I of the Income-tax Act, the following section shall be inserted, namely:—

'271J. Without prejudice to the provisions of this Act, where the Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under this Act, finds that an accountant or a merchant banker or a registered valuer has furnished incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct that such accountant or merchant banker or registered valuer, as the case may be, shall pay, by way of penalty, a sum of ten thousand rupees for each such report or certificate.

Explanation.—For the purposes of this section,—

(*a*) "accountant" means an accountant referred to in the *Explanation* below sub-section (2) of section 288;

(*b*) "merchant banker" means Category I merchant banker registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992,

15 of 1992

(*c*) "registered valuer" means a person defined in clause (*oaa*) of section 2 of the Wealth-tax Act, 1957.'.

27 of 1957.

Amendment of section 273B.

88. In section 273B of the Income-tax Act, after the word, figures and letter "section 271-I,", the word, figures and letter 'section 271J,' shall be inserted.

CHAPTER IV

INDIRECT TAXES

Customs

52 of 1962

Amendment of section 2.

89. In the Customs Act, 1962 (hereinafter referred to as the Customs Act), in section 2,—

(*a*) after clause (*3*), the following clause shall be inserted, namely:—

'(*3A*) "beneficial owner" means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;';

(*b*) in clause (*13*), for the words "customs airport", the words "customs airport, international courier terminal, foreign post office" shall be substituted;

(*c*) in clause (*16*), the words and figures "in the case of goods imported or to be exported by post, the entry referred to in section 82 or" shall be omitted;

(*d*) in clause (*20*), for the words "any owner", the words "any owner, beneficial owner" shall be substituted;

(*e*) after clause (*20*), the following clause shall be inserted, namely:—

'(*20A*) "foreign post office" means any post office appointed under clause (*e*) of sub-section (*1*) of section 7 to be a foreign post office;';

(*f*) in clause (*26*), for the words "any owner", the words "any owner, beneficial owner" shall be substituted;

(*g*) after clause (*28*), the following clause shall be inserted, namely:—

'(*28A*) "international courier terminal" means any place appointed under clause (*f*) of sub-section (*1*) of section 7 to be an international courier terminal;';

(*h*) after clause (*30A*), the following clause shall be inserted, namely:—

'(*30B*) "passenger name record information" means the records prepared by an operator of any aircraft or vessel or vehicle or his authorised agent for each journey booked by or on behalf of any passenger,'.

Amendment of section 7

90. In the Customs Act, in section 7, in sub-section (*1*), after clause (*d*), the following clauses shall be inserted, namely:—

"(*e*) the post offices which alone shall be foreign post offices for the clearance of imported goods or export goods or any class of such goods;

(*f*) the places which alone shall be international courier terminals for the clearance of imported goods or export goods or any class of such goods.".

Amendment of section 17.

91. In the Customs Act, in section 17, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) For verification of self-assessment under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.".

Amendment of section 27.

92. In the Customs Act, in section 27, in sub-section (*2*), in the first proviso, after clause (*f*), the following clause shall be inserted, namely:—

"(*g*) the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where—

(*i*) such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry; or

(*ii*) the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.".

Amendment of section 28E.

93. In the Customs Act, in section 28E, for clause (*e*), the following clause shall be substituted, namely:—

'(*e*) "Authority" means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961;'. 43 of 1961.

Substitution of new section for section 28F.

94. In the Customs Act, for section 28F, the following section shall be substituted, namely:—

Authority for Advance Rulings.

"28F. (*1*) Subject to the provisions of this Act, the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall be the Authority for giving advance rulings for the purposes of this Act and the said Authority shall exercise the jurisdiction, powers and authority conferred on it by or under this Act: 43 of 1961.

Provided that the Member from the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Authority for the purposes of this Act.

(*2*) On and from the date on which the Finance Bill, 2017 receives the assent of the President, every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such assent.".

Omission of section 28G.

95. In the Customs Act, section 28G shall be omitted.

Amendment of section 28H.

96. In the Customs Act, in section 28H, in sub-section (*3*), for the words "two thousand five hundred rupees", the words "ten thousand rupees" shall be substituted.

Amendment of section 28-I.

97. In the Customs Act, in section 28-I, in sub-section (*6*), for the words "ninety days", the words "six months" shall be substituted.

Insertion of new section 30A.

98. In the Customs Act, after section 30, the following section shall be inserted, namely:—

Passenger and crew arrival manifest and passenger name record information

"30A. (*1*) The person-in-charge of a conveyance that enters India from any place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer—

(*i*) the passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and

(*ii*) the passenger name record information of arriving passengers,

in such form, containing such particulars, in such manner and within such time, as may be prescribed.

(2) Where the passenger and crew arrival manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or the other person referred to in sub-section (*1*) shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.".

Insertion of new section 41A.

99. In the Customs Act, after section 41, the following section shall be inserted, namely.—

Passenger and crew departure manifest and passenger name record information.

"41A. (*1*) The person-in-charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer—

(*i*) the passenger and crew departure manifest; and

(*ii*) the passenger name record information of departing passengers,

in such form, containing such particulars, in such manner and within such time, as may be prescribed.

(2) Where the passenger and crew departure manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the

prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or the other person referred to in sub-section (*1*) shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.".

Amendment of section 46

100. In the Customs Act, in section 46, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The importer shall present the bill of entry under sub-section (*1*) before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing.

Provided that a bill of entry may be presented within thirty days of the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India:

Provided further that where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.".

Amendment of section 47.

101. In the Customs Act, in section 47, in sub-section (*2*), for the portion beginning with the words "Where the importer fails to pay" and ending with the words "in the Official Gazette", the following shall be substituted, namely:—

"The importer shall pay the import duty—

(*a*) on the date of presentation of the bill of entry in the case of self-assessment; or

(*b*) within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or

(*c*) in the case of deferred payment under the proviso to sub-section (*1*), from such due date as may be specified by rules made in this behalf,

and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten per cent. but not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.".

Substitution of new section for section 49.

102. In the Customs Act, for section 49, the following section shall be substituted, namely:—

Storage of imported goods in warehouse pending clearance or removal

"49. Where,—

(*a*) in the case of any imported goods, whether dutiable or not, entered for home consumption, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be cleared within a reasonable time:

(*b*) in the case of any imported dutiable goods, entered for warehousing, the Assistant Commissioner of Customs or Deputy Commissioner of Customs is satisfied on the application of the importer that the goods cannot be removed for deposit in a warehouse within a reasonable time,

the goods may pending clearance or removal, as the case may be, be permitted to be stored in a public warehouse for a period not exceeding thirty days:

Provided that the provisions of Chapter IX shall not apply to goods permitted to be stored in a public warehouse under this section:

Provided further that the Principal Commissioner of Customs or Commissioner of Customs may extend the period of storage for a further period not exceeding thirty days at a time."

Amendment of section 69.

103. In the Customs Act, in section 69, in sub-section (*1*), for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) a shipping bill or a bill of export or the form as prescribed under section 84 has been presented in respect of such goods;".

Omission of section 82.

104. In the Customs Act, section 82 shall be omitted.

Amendment of section 84.

105. In the Customs Act, in section 84, for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) the form and manner in which an entry may be made in respect of goods imported or to be exported by post;".

Amendment of section 127B.

106. In the Customs Act, in section 127B, after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) Any person, other than an applicant referred to in sub-section (*1*), may also make an application to the Settlement Commission in respect of a show cause notice issued to him in a case relating to the applicant which has been settled or is pending before the Settlement Commission and such notice is pending before an adjudicating authority, in such manner and subject to such conditions, as may be specified by rules.".

Amendment of section 127C.

107. In the Customs Act, in section 127C, after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*5A*) The Settlement Commission may, at any time within three months from the date of passing of the order under sub-section (*5*), amend such order to rectify any error apparent on the face of record, either *suo motu* or when such error is brought to its notice by the jurisdictional Principal Commissioner of Customs or Commissioner of Customs or the applicant:

Provided that no amendment which has the effect of enhancing the liability of the applicant shall be made under this sub-section, unless the Settlement Commission has given notice of such intention to the applicant and the jurisdictional Principal Commissioner of Customs or Commissioner of Customs as the case may be, and has given them a reasonable opportunity of being heard.".

Amendment of section 157.

108. In the Customs Act, in section 157, in sub-section (*2*), after clause (*aa*), the following clause shall be inserted, namely:—

"(*ab*) the form, the particulars, the manner and the time of delivering the passenger and crew manifest for arrival and departure and passenger name record information and the penalty for delay in delivering such information under sections 30A and 41A;".

Customs Tariff

51 of 1975. **109.** In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in section 9, in sub-section (*3*), for clause (*c*), the following clause shall be substituted, namely:— Amendment of section 9.

"(*c*) the subsidy has been conferred on a limited number of persons engaged in the manufacture, production or export of articles;".

110. In the Customs Tariff Act, the First Schedule shall— Amendment of First Schedule

(*a*) be amended in the manner specified in the Second Schedule;

(*b*) be also amended in the manner specified in the Third Schedule.

111. In the Customs Tariff Act, the Second Schedule shall be amended in the manner specified in the Fourth Schedule. Amendment of Second Schedule.

Excise

1 of 1944. **112.** In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 23A, for clause (*e*), the following clause shall be substituted, namely:— Amendment of section 23A.

'(*e*) "Authority" means the Authority for Advance Rulings as defined in

52 of 1962 clause (*e*) of section 28E of the Customs Act, 1962;'.

113. In the Central Excise Act, section 23B shall be omitted. Omission of section 23B

114. In the Central Excise Act, in section 23C, in sub-section (*3*), for the words "two thousand and five hundred rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 23C.

115. In the Central Excise Act, in section 23D, in sub-section (*6*), for the words "ninety days", the words "six months" shall be substituted. Amendment of section 23D.

116. In the Central Excise Act, after section 23H, the following section shall be inserted, namely:— Insertion of new section 23-I

"23-I. On and from the date on which the Finance Bill, 2017 receives the assent of the President, every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such assent.". Transitional provision

117. In the Central Excise Act, in section 32E, after sub-section (*4*), the following sub-section shall be inserted, namely:— Amendment of section 32E

"(*5*) Any person other than an assessee, may also make an application to the Settlement Commission in respect of a show cause notice issued to him in a case relating to the assessee which has been settled or is pending before the Settlement Commission and such notice is pending before an adjudicating authority, in such manner and subject to such conditions, as may be prescribed.".

118. In the Central Excise Act, in section 32F,— Amendment of section 32F.

(*i*) in sub-section (*1*), for words, brackets and figure "sub-section (*1*) of" shall be omitted;

(*ii*) after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*5A*) The Settlement Commission may, at any time within three months from the date of passing of the order under sub-section (*5*) amend such order to rectify any error apparent on the face of record, either *suo motu* or when

such error is brought to its notice by the jurisdictional Principal Commissioner of Central Excise or Commissioner of Central Excise or the applicant:

Provided that no amendment which has the effect of enhancing the liability of the applicant shall be made under this sub-section, unless the Settlement Commission has given notice of such intention to the applicant and the jurisdictional Principal Commissioner of Central Excise or Commissioner of Central Excise as the case may be, and has given them a reasonable opportunity of being heard.'.

Central Excise Tariff

Amendment of First Schedule.

119. In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act), the First Schedule shall be amended in the manner specified in the Fifth Schedule. 5 of 1986.

Retrospective amendment of certain entries in First Schedule.

120. In the Central Excise Tariff Act, in the First Schedule, in Chapter 87, in column (4), for the entry "27%" occurring against tariff items 8702 90 21, 8702 90 22, 8702 90 28 and 8702 90 29, the entry "12.5%" shall be substituted and shall be deemed to have been substituted retrospectively with effect from the 1st day of January, 2017

CHAPTER V

SERVICE TAX

Amendment of section 65B.

121. In the Finance Act, 1994 (hereinafter referred to as the 1994 Act), in section 65B, clause (*40*) shall be omitted. 32 of 1994.

Amendment of section 66D.

122. In the 1994 Act, in section 66D, clause (*f*) shall be omitted.

Amendment of section 96A

123. In the 1994 Act, in section 96A, for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "Authority" means the Authority for Advance Rulings as defined in clause (*e*) of section 28E of the Customs Act, 1962;'. 52 of 1962.

Omission of section 96B.

124. In the 1994 Act, section 96B shall be omitted.

Amendment of section 96C.

125. In the 1994 Act, in section 96C, in sub-section (*3*), for the words "two thousand and five hundred rupees", the words "ten thousand rupees" shall be substituted.

Amendment of section 96D.

126. In the 1994 Act, in section 96D, in sub-section (*6*), for the words "ninety days", the words "six months" shall be substituted.

Insertion of new section 96HA.

127. In the 1994 Act, after section 96H, the following section shall be inserted, namely.—

Transitional provision.

"96HA. On and from the date on which the Finance Bill, 2017 receives the assent of the President, every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such assent.".

Insertion of new sections 104 and 105.

128. In the 1994 Act, after section 103, the following sections shall be inserted, namely:—

Special provision for exemption in certain cases relating to long term lease of industrial plots.

"104. (*1*) Notwithstanding anything contained in section 66, as it stood prior to the 1st day of July, 2012, or in section 66B, no service tax, leviable on one time upfront amount (premium, salami, cost, price, development charge or by whatever name called) in respect of taxable service provided or agreed to be provided by a State Government industrial development corporation or undertaking to industrial

units by way of grant of long term lease of thirty years or more of industrial plots, shall be levied or collected during the period commencing from the 1st day of June, 2007 and ending with the 21st day of September, 2016 (both days inclusive).

(2) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2017 receives the assent of the President.

Special provision for exemption in certain cases relating to life insurance services provided to members of armed forces of Union.

105. (1) Notwithstanding anything contained in section 66, as it stood prior to the 1st day of July, 2012, or in section 66B, no service tax shall be levied or collected in respect of taxable services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government, during the period commencing from the 10th day of September, 2004 and ending with the 1st day of February, 2017 (both days inclusive).

(2) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2017 receives the assent of the President.".

Amendment of rule 2A of Service Tax (Determination of Value) Rules, 2006, retrospectively.

129. (1) In the Service Tax (Determination of Value) Rules, 2006 made by the Central
32 of 1994. Government in exercise of the powers conferred by section 94 of the Finance Act, 1994, published in the Gazette of India *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 228(*E*), dated the 19th April, 2006,—

(*a*) rule 2A as inserted by the Service Tax (Determination of Value) (Amendment) Rules, 2007 published *vide* number G.S.R. 375(*E*), dated the 22nd May, 2007; and

(*b*) rule 2A as substituted by the Service Tax (Determination of Value) Second Amendment Rules, 2012 published *vide* number G.S.R. 431(*E*), dated the 6th June, 2012,

shall stand amended and shall be deemed to have been amended in the manner specified in column (3) of the Sixth Schedule, on and from and up to the corresponding date specified in column (4), against each of the rule specified in column (2) thereof

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done at any time during the period specified in column (4) of the Sixth Schedule relating to the provisions as amended by sub-section (1) shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(3) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central
32 of 1994. Government had the power to make rules under section 94 of the Finance Act, 1994, retrospectively, at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

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CHAPTER VI

MISCELLANEOUS

PART I

AMENDMENTS TO THE INDIAN TRUSTS ACT, 1882

Commencement of this Part

130. The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 20 of Act 2 of 1882.

131. In section 20 of the Indian Trusts Act.1882 [as substituted by section 2 of the Indian Trusts (Amendment) Act, 2016],—

(*i*) for the words "invest the money in any of the securities or class of securities expressly authorised by the instrument of trust or", the words "make investments as expressly authorised by the instrument of trust or in any of the securities or class of securities" shall be substituted;

(*ii*) in the proviso, the words "in any of the securities or class of securities mentioned above" shall be omitted.

PART II

AMENDMENTS TO THE INDIAN POST OFFICE ACT, 1898

Commencement of this Part

132. The provisions of this Part shall come into force on the 1st day of April, 2017.

Amendment of section 7 of Act 6 of 1898.

133. In section 7 of the Indian Post Office Act, 1898,—

(*a*) in sub-section (*1*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that until such notification is issued, the rates set forth in the First Schedule shall be the rates chargeable under this Act.";

(*b*) sub-section (*2*) shall be omitted.

PART III

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

Commencement of this Part. Amendment of section 31 of Act 2 of 1934.

134. The provisions of this Part shall come into force on the 1st day of April, 2017.

135. In the Reserve Bank of India Act, 1934, in section 31, after sub-section (2), the following sub-section shall be inserted, namely:—

'(*3*) Notwithstanding anything contained in this section, the Central Government may authorise any scheduled bank to issue electoral bond

Explanation.— For the purposes of this sub-section, "electoal bond" means a bond issued by any scheduled bank under the scheme as may be notified by the Central Government.'.

PART IV

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1951

Commencement of this Part. Amendment of section 29C of Act 43 of 1951.

136. The provisions of this Part shall come into force on the 1st day of April, 2017.

137. In the Representation of the People Act, 1951, in section 29C, in sub-section (*1*), the following shall be inserted, namely:—

'Provided that nothing contained in this sub-section shall apply to the contributions received by way of an electoral bond.

Explanation.—For the purposes of this sub-section, "electoral bond" means a bond referred to in the *Explanation* to sub-section (*3*) of section 31 of the Reserve Bank of India Act, 1934. 2 of 1934

PART V

AMENDMENT TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

42 of 1956. **138.** In the Securities Contracts (Regulation) Act, 1956, in section 23J, the following *Explanation* shall be inserted, namely:— Amendment of section 23J.

"*Explanation.*—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 23A to 23C shall be and shall always be deemed to have exercised under the provisions of this section.".

PART VI

AMENDMENTS TO THE OIL INDUSTRY (DEVELOPMENT) ACT, 1974

139. The provisions of this Part shall come into force on the 1st day of April, 2017. Commencement of this Part

140. In the Oil Industry (Development) Act, 1974, in section 18, in sub-section (2), after clause (*d*), the following clauses shall be inserted, namely:— Amendment of section 18 of Act 47 of 1974

"(*e*) for meeting any expenditure incurred by any Central Public Sector Undertaking in the oil and gas sector, on behalf of the Central Government;

(*f*) for meeting expenditure on any scheme or activity by the Central Government relating to oil and gas sector.".

PART VII

REPEAL OF THE RESEARCH AND DEVELOPMENT CESS ACT, 1986.

141. The provisions of this Part shall come into force on the 1st day of April, 2017. Commencement of this Part.

142. The Research and Development Cess Act, 1986 is hereby repealed. Repeal of Act 32 of 1986

143. (*1*) The repeal of the Research and Development Cess Act, 1986 by this Act shall not— Savings.

(*a*) affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

(*b*) affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

(*c*) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from the enactment hereby repealed;

(*d*) revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

(*2*) The mention of particular matter in sub-section (*1*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897, with regard to the effect of repeal. 10 of 1897.

32 of 1986. **144.** Notwithstanding the repeal of the Research and Development Cess Act, 1986, the proceeds of duties levied under the said Act immediately preceding the date of commencement of this Part,— Collection and payment of arrears of duties.

(*i*) if collected by the collecting agencies but not paid into the Reserve Bank of India; or

(*ii*) if not collected by the collecting agencies,

shall be paid or, as the case may be, collected and paid into the Reserve Bank of India for being credited to the Consolidated Fund of India.

PART VIII

AMENDMENTS TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

Commencement of this Part.

145. The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Part.

Amendment of Act 15 of 1992.

146. In the Securities and Exchange Board of India Act, 1992 (hereafter in this Part referred to as the principal Act), in section 2, in sub-section (*1*),— 15 of 1992

(*A*) after clause (*d*), the following clauses shall be inserted, namely:—

'(*da*) "Insurance Regulatory and Development Authority" means the Insurance Regulatory and Development Authority of India established under sub-section (*1*) of section 3 of the Insurance Regulatory and Development Authority Act, 1999; 41 of 1999.

(*db*) "Judicial Member" means a Member of the Securities Appellate Tribunal appointed under sub-section (*1*) of section 15MA and includes the Presiding Officer;';

(*B*) after clause (*f*), the following clause shall be inserted, namely:—

'(*fa*) "Pension Fund Regulatory and Development Authority" means the Pension Fund Regulatory and Development Authority established under sub-section (*1*) of section 3 of the Pension Fund Regulatory and Development Authority Act, 2013;'; 23 of 2013

(*C*) after clause (*i*), the following clause shall be inserted, namely:—

'(*j*) "Technical Member" means a Technical Member appointed under sub-section (*1*) of section 15MB.'.

Amendment of section 15J

147. In section 15J of the principal Act, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E clauses (*b*) and (*c*) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.".

Amendment of Chapter VIB

148. In Chapter VIB of the principal Act,—

(*a*) in the chapter heading, for the words "APPELLATE TRIBUNAL", the words "SECURITIES APPELLATE TRIBUNAL" shall be substituted;

(*b*) for section 15K, the following section shall be substituted, namely:—

Establishment of Securities Appellate Tribunal.

"15K. (*1*) The Central Government shall, by notification, establish a Tribunal to be known as the Securities Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on it by or under this Act or any other law for the time being in force.

(*2*) The Central Government shall also specify in the notification referred to in sub-section (*1*), the matters and places in relation to which the Securities Appellate Tribunal may exercise jurisdiction.";

(*c*) for section 15L, the following section shall be substituted, namely:—

Composition of Securities Appellate Tribunal.

"15L. (*1*) The Securities Appellate Tribunal shall consist of a Presiding Officer and such number of Judicial Members and Technical Members as the Central Government may determine, by notification, to exercise the powers and discharge the functions conferred on the Securities Appellate Tribunal under this Act or any other law for the time being in force.

(*2*) Subject to the provisions of this Act,—

(*a*) the jurisdiction of the Securities Appellate Tribunal may be exercised by Benches thereof;

(*b*) a Bench may be constituted by the Presiding Officer of the Securities Appellate Tribunal with two or more Judicial or Technical Members as he may deem fit:

Provided that every Bench constituted shall include at least one Judicial Member and one Technical Member:

(*c*) the Benches of the Securities Appellate Tribunal shall ordinarily sit at Mumbai and may also sit at such other places as the Central Government may, in consultation with the Presiding Officer, notify.

(*3*) Notwithstanding anything contained in sub-section (*2*), the Presiding Officer may transfer a Judicial Member or a Technical Member of the Securities Appellate Tribunal from one Bench to another Bench.";

(*d*) for section 15M, the following sections shall be substituted, namely:—

Qualification for appointment as Presiding Officer, Judicial Member and Technical Member.

"15M. A person shall not be qualified for appointment as the Presiding Officer or a Judicial Member or a Technical Member of the Securities Appellate Tribunal, unless he—

(*a*) is, or has been, a Judge of the Supreme Court or a Chief Justice of a High Court or a Judge of High Court for at least seven years, in the case of the Presiding Officer; and

(*b*) is, or has been, a Judge of High Court for at least five years, in the case of a Judicial Member; or

(*c*) in the case of a Technical Member—

(*i*) is, or has been, a Secretary or an Additional Secretary in the Ministry or Department of the Central Government or any equivalent post in the Central Government or a State Government; or

(*ii*) is a person of proven ability, integrity and standing having special knowledge and professional experience, of not less than fifteen years, in financial sector including securities market or pension funds or commodity derivatives or insurance.

Amendment of Presiding Officer and Judicial Members

15MA. The Presiding Officer and Judicial Members of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.

Search-cum-Selection Committee for appointment of Technical Members.

15MB. (*1*) The Technical Members of the Securities Appellate Tribunal shall be appointed by the Central Government on the recommendation of a Search-cum-Selection Committee consisting of the following, namely:—

(*a*) Presiding Officer, Securities Appellate Tribunal—Chairperson;

(*b*) Secretary, Department of Economic Affairs—Member;

(*c*) Secretary, Department of Financial Services—Member; and

(*d*) Secretary, Legislative Department or Secretary, Department of Legal Affairs—Member.

(*2*) The Secretary, Department of Economic Affairs shall be the Convener of the Search-cum-Selection Committee.

(*3*) The Search-cum-Selection Committee shall determine its procedure for recommending the names of persons to be appointed under sub-section (*1*).

Vacancy not to invalidate selection proceeding

15MC. (*1*) No appointment of the Presiding Officer, a Judicial Member or a Technical Member of the Securities Appellate Tribunal shall be invalid merely by reason of any vacancy or any defect in the constitution of the Search-cum-Selection Committee.

(2) A member or part time member of the Board or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, or any person at senior management level equivalent to the Executive Director in the Board or in such Authorities, shall not be appointed as Presiding Officer or Member of the Securities Appellate Tribunal, during his service or tenure as such with the Board or with such Authorities, as the case may be, or within two years from the date on which he ceases to hold office as such in the Board or in such Authorities.

(3) The Presiding Officer or such other member of the Securities Appellate Tribunal, holding office on the date of commencement of Part VIII of Chapter VI of the Finance Act, 2017 shall continue to hold office for such term as he was appointed and the other provisions of this Act shall apply to such Presiding Officer or such other member, as if Part VIII of Chapter VI of the Finance Act, 2017 had not been enacted ";

(*e*) for section 15N, the following section shall be substituted, namely:—

Tenure of office of Presiding Officer, Judicial or Technical Members of Securities Appellate Tribunal

"15N. The Presiding Officer or every Judicial or Technical Member of the Securities Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, and shall be eligible for reappointment for another term of maximum five years:

Provided that no Presiding Officer or the Judicial or Technical Member shall hold office after he has attained the age of seventy years.";

(*f*) after section 15P, the following section shall be inserted, namely:—

Member to act as Presiding Officer in certain circumstances.

"15PA. In the event of occurrence of any vacancy in the office of the Presiding Officer of the Securities Appellate Tribunal by reason of his death, resignation or otherwise, the senior-most Judicial Member of the Securities Appellate Tribunal shall act as the Presiding Officer until the date on which a new Presiding Officer is appointed in accordance with the provisions of this Act.";

(g) in section 15Q, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Central Government may, after an inquiry made by the Judge of the Supreme Court, remove the Presiding Officer or Judicial Member or Technical Member of the Securities Appellate Tribunal, if he—

(*a*) is, or at any time has been adjudged as an insolvent;

(*b*) has become physically or mentally incapable of acting as the Presiding Officer, Judicial or Technical Member;

(*c*) has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude;

(*d*) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest; or

(*e*) has acquired such financial interest or other interest as is likely to affect prejudicially his functions as the Presiding Officer or Judicial or Technical Member:

Provided that he shall not be removed from office under clauses (*d*) and (*e*), unless he has been given a reasonable opportunity of being heard in the matter.";

(*h*) In section 15T,—

(*I*) in sub-section (*1*),—

(*A*) in clause (*b*), for the words "under this Act,", the words "under this Act, or" shall be substituted;

(*B*) after clause (*b*) and before the long line, the following clause shall be inserted, namely:—

"(*c*) by an order of the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority.";

(*II*) in sub-section (*3*), after the words "adjudicating officer", the words "or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority" shall be inserted;

(*III*) in sub-section (*5*), after the words "the Board", the words "or the Insurance Regulatory and Development Authority or the Pension Fund Regulatory and Development Authority, as the case may be" shall be inserted;

(*i*) in section 15U, after sub-section (*3*), the following sub-sections shall be inserted, namely:—

"(*4*) Where Benches are constituted, the Presiding Officer of the Securities Appellate Tribunal may, from time to time make provisions as to the distribution of the business of the Securities Appellate Tribunal amongst the Benches and also provide for the matters which may be dealt with by each Bench.

(*5*) On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Presiding Officer of the Securities Appellate Tribunal may transfer any case pending before one Bench, for disposal, to any other Bench.

(*6*) If a Bench of the Securities Appellate Tribunal consisting of two members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Presiding Officer of the Securities Appellate Tribunal who shall either hear the point or points himself or refer the case for hearing only on such point or points by one or more of the other members of the Securities Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of the members of the Securities Appellate Tribunal who have heard the case, including those who first heard it.".

PART IX

AMENDMENT TO THE DEPOSITORIES ACT, 1996

22 of 1996.

149. In the Depositories Act, 1996, in section 19-I, the following *Explanation* shall be inserted, namely:— Amendment of section 19-I

"*Explanation.*—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 19A to 19F shall be and shall always be deemed to have been exercised under the provisions of this section.".

PART X

AMENDMENT TO THE FINANCE ACT, 2005

150. In the Finance Act, 2005, the Seventh Schedule shall be amended in the manner specified in the Seventh Schedule. Amendment of Act 18 of 2005.

PART XI

AMENDMENTS TO THE PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007

151. The provisions of this Part shall come into force on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different provisions of this Part. Commencement of this Part.

Amendment of Act 51 of 2007.

152. In the Payment and Settlement Systems Act, 2007 (hereafter in this Part referred to as the principal Act), for Chapter II, the following Chapter shall be substituted, namely:— 51 of 2007.

'CHAPTER II

DESIGNATED AUTHORITY

Designated authority

3. (*1*) The Reserve Bank shall be the designated authority for the regulation and supervision of payment systems under this Act.

(*2*) The Reserve Bank shall exercise the powers, perform the functions and discharge the duties conferred on it under this Act through a Board to be known as the "Payments Regulatory Board".

(*3*) The Board shall consist of the following members, namely:—

(*a*) the Governor of the Reserve Bank—Chairperson, *ex officio*;

(*b*) the Deputy Governor of the Reserve Bank in-charge of the Payment and Settlement Systems—Member, *ex officio*;

(*c*) one officer of the Reserve Bank to be nominated by the Central Board of the Reserve Bank—Member, *ex officio*; and

(*d*) three persons to be nominated by the Central Government—Members.

(*4*) The powers and functions of the Board referred to in sub-section (*2*), the time and venue of its meetings, the procedures to be followed in such meetings (including the quorum at such meetings) and other matters incidental thereto shall be such as may be prescribed.'.

Amendment of section 38.

153. In section 38 of the principal Act, in sub-section (*2*), in clause (*a*) for the words, brackets and figure "Committee constituted under sub-section (*2*)", the words, brackets and figure "Board referred to in sub-section (*2*)" shall be substituted.

PART XII

AMENDMENT TO THE COMPANIES ACT, 2013

Amendment of section 182.

154. In the Companies Act, 2013, in section 182— 18 of 2013.

(*i*) in sub-section (*1*),—

(*a*) first proviso shall be omitted;

(*b*) in the second proviso, —

(*A*) the word "further" shall be omitted;

(*B*) the words "and the acceptance" shall be omitted;

(*ii*) for sub-section (*3*), the following shall be substituted, namely:—

"(3) Every company shall disclose in its profit and loss account the total amount contributed by it under this section during the financial year to which the account relates.

(3A) Notwithstanding anything contained in sub-section (*1*), the contribution under this section shall not be made except by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that a company may make contribution through any instrument, issued pursuant to any scheme notified under any law for the time being in force, for contribution to the political parties.".

PART XIII

AMENDMENT TO THE FINANCE ACT, 2016

Amendment of Act 28 of 2016.

155. In the Finance Act, 2016,—

(*i*) in section 50, for the words, figures and letters "with effect from the 1st day of April, 2017", the words, figures and letters "and shall be deemed to have been substituted with effect from the 1st day of April, 2013" shall be substituted;

(*ii*) in section 197, clause (*c*) shall be omitted and shall be deemed to have been omitted with effect from the 1st day of June, 2016.

'PART XIV

AMENDMENTS TO CERTAIN ACTS TO PROVIDE FOR MERGER OF TRIBUNALS AND OTHER AUTHORITIES AND CONDITIONS OF SERVICE OF CHAIRPERSONS, MEMBERS, ETC.

A.—PRELIMINARY

Commencement of this Part

156. The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Part and any reference in any provision to the commencement of this Part shall be construed as a reference to the coming into force of that provision.

Definitions

157. In this Part, unless the context otherwise requires,—

(*a*) "appointed day", in relation to any provision of this Part, means such date as the Central Government may, by notification in the Official Gazette, appoint;

(*b*) "Authority" means the Authority, other than Tribunals and Appellate Tribunals, specified in the Eighth Schedule or Ninth Schedule, as the case may be;

(*c*) "notification" means a notification published in the Official Gazette;

(*d*) "Schedule" means the Eighth Schedule and Ninth Schedule appended to this Act.

B.—AMENDMENTS TO THE INDUSTRIAL DISPUTES ACT, 1947 AND THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952.

Amendment of Act 14 of 1947.

158. In the Industrial Disputes Act, 1947,—

(*a*) in section 7A, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) The Industrial Tribunal constituted by the Central Government under sub-section (*1*) shall also exercise, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, the jurisdiction, powers and authority conferred on the Tribunal referred to in section 7D of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.";

19 of 1952.

(*b*) after section 7C, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Presiding Officer.

"7D. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation and removal and other terms and conditions of service of the Presiding Officer of the Industrial Tribunal appointed by the Central Government under sub-section (*1*) of section 7A, shall, after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be governed by the provisions of section 184 of that Act:

Provided that the Presiding Officer appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

Amendment of Act 19 of 1952.

159. In the Employees' Provident Funds and Miscellaneous Provisions Act, 1952,—

(*a*) in section 2, for clause (*m*), the following clause shall be substituted, namely:—

'(*m*) "Tribunal" means the Industrial Tribunal referred to in section 7 D;';

(*b*) for section 7D, the following section shall be substituted, namely:—

Tribunal.

"7D. The Industrial Tribunal constituted by the Central Government under sub-section (*1*) of section 7A of the Industrial Disputes Act, 1947 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.";

(*c*) sections 7E, 7F, 7G, 7H, 7M and 7N shall be omitted;

(*d*) for section 18A, the following section shall be substituted, namely:—

Authorities and inspector to be public servant.

"18A. The authorities referred to in section 7A and every inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.";

45 of 1860.

(*e*) in section 21, in sub-section (*2*), clause (*a*) shall be omitted.

C.—AMENDMENTS TO THE COPYRIGHT ACT, 1957 AND THE TRADE MARKS ACT, 1999.

Amendment of Act 14 of 1957.

160. In the Copy Right Act, 1957,—

(*a*) for the words "Copyright Board", wherever they occur, the words "Appellate Board" shall be substituted;

(*b*) in section 2, after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) "Appellate Board" means the Appellate Board referred to in section 11';

(*c*) for section 11, the following section shall be substituted, namely:—

Appellate Board.

"11. The Appellate Board established under section 83 of the Trade Marks Act, 1999 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Board for the purposes of this Act and the said Appellate Board shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.";

47 of 1999.

(*d*) in section 12, sub-sections (*3*) and (*4*) shall be omitted;

(*e*) in section 78, in sub-section (*2*), clause (*a*) shall be omitted.".

Amendment of Act 47 of 1999

161. In the Trade Marks Act, 1999,—

(*a*) for the word "Chairman" or "Vice-Chairman", wherever it occurs, the word "Chairperson" or "Vice-Chairperson" shall be substituted;

(*b*) in section 83, after the words "under this Act", the words and figures "and under the Copyright Act, 1957" shall be inserted;

47 of 1957.

(*c*) after section 89, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson, Vice-Chairperson and Member.

"89A. Notwithstanding anything in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairperson, Vice-Chairperson and other Members of the Appellate Board appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson, Vice-Chairperson and other Members appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017, had not come into force."

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D.—AMENDMENTS TO THE RAILWAY CLAIMS TRIBUNAL ACT, 1987 AND THE RAILWAYS ACT, 1989.

Amendment of Act 54 of 1987.

162. In the Railway Claims Tribunal Act, 1987,—

(*a*) in section 3, after the words "under this Act" the words, letters and figures
24 of 1989 "and under Chapter VII of the Railways Act, 1989" shall be inserted;

(*b*) after section 9, the following section shall be substituted, namely:—

Qualifications, terms and conditions of service of Chairman, Vice-Chairman and Member.

"9A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairman, Vice-Chairman and other Members of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman, Vice-Chairman and Members appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017, had not come into force.";

(*c*) in section 13, after sub-section (*1A*), the following sub-section shall be inserted, namely:—

"(*1B*) The Claims Tribunal shall also exercise, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, the jurisdiction, powers and authority conferred on the Tribunal under Chapter VII of the Railways
24 of 1989 Act, 1989 ";

(*d*) in section 15, for the words, brackets, figures and letter "sub-sections (*1*) and (*1A*)", the words, brackets, figures and letters "sub-sections (*1*), (*1A*) and (*1B*)" shall be substituted;

(*e*) in section 24, in sub-section (*1*), for the words, brackets, figure and letter "or, as the case may be, the date of commencement of the provisions of sub-section (*1A*)", at both the places where they occur, the words, brackets, figures and letters "or the date of commencement of the provisions of sub-section (*1A*), or, as the case may be, the date of commencement of the provisions of sub-section (*1B*)" shall be substituted.

Amendment of Act 24 of 1989

24 of 1989. **163.** In the Railways Act, 1989,—

(*a*) in section 2, for clause (*40*), the following clause shall be substituted, namely:—

'(*40*) "Tribunal" means the Tribunal referred to in section 33;';

(*b*) in Chapter VII, for the heading, the following heading shall be substituted, namely:—

"TRIBUNAL";

(*c*) for section 33, the following section shall be substituted, namely:—

Tribunal

"33. The Railway Claims Tribunal established under section 3 of the Railway
54 of 1987. Claims Tribunal Act, 1987 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise the jurisdiction, authority and powers conferred on it by or under this Act.";

(*d*) sections 34 and 35 shall be omitted;

(*e*) in section 48, in sub-section (2), clause (*a*) shall be omitted.

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E.—AMENDMENTS TO THE SMUGGLERS AND FOREIGN EXCHANGE MANIPULATORS (FORFEITURE OF PROPERTY) ACT, 1976 AND THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999

Amendment of Act 13 of 1976.

164. In the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976,—

(*a*) in section 12, in sub-section (*1*), after clause (*c*), the following clause shall be inserted, namely:—

"(*d*) by the Adjudicating Authorities, Competent Authorities and the Qualifications, Special Director (Appeals) under the Foreign Exchange Management Act, 1999.";

42 of 1999.

(*b*) after section 12, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairperson, and Member.

"12A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson and other members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and other members appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

Amendment of Act 42 of 1999.

165. In the Foreign Exchange Management Act, 1999,—

(*a*) in section 2,—

(*i*) for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "Appellate Tribunal" means the Appellate Tribunal referred to in section 18;';

(*ii*) in clause (*zc*), for the word and figures "section 18", the word and figures "section 17" shall be substituted;

(*b*) for section 18, the following section shall be substituted, namely:—

Appellate Tribunal

"18. The Appellate Tribunal constituted under sub-section (*1*) of section 12 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976, shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.";

13 of 1976.

(*c*) section 20 shall be omitted;

(*d*) for section 21, the following section shall be substituted, namely:—

Qualifications, for appointment of Special Director (Appeals).

"21. A person shall not be qualified for appointment as a Special Director (Appeals) unless he—

(*a*) has been a member of the Indian Legal Service and has held a post in Grade I of that Service; or

(*b*) has been a member of the Indian Revenue Service and has held a post equivalent to a Joint Secretary to the Government of India.";

(*e*) section 22 shall be omitted;

(*f*) for section 23, the following section shall be substituted, namely:—

"23. The salary and allowances payable to and the other terms and conditions of service of the Special Director (Appeals) shall be such as may be prescribed.";

Terms and conditions of service of Special Director (Appeals)

(*g*) sections 24, 25 and 26 shall be omitted;

(*h*) for section 27, the following section shall be substituted, namely:—

"27. (*1*) The Central Government shall provide the office of the Special Director (Appeals) with such officers and employees as it may deem fit.

Staff of Special Director (Appeals)

(*2*) The officers and employees of the office of the Special Director (Appeals) shall discharge their functions under the general superintendence of the Special Director (Appeals).

(*3*) The salaries and allowances and other terms and conditions of service of the officers and employees of the office of the Special Director (Appeals) shall be such as may be prescribed.";

(*i*) sections 29, 30 and 31 shall be omitted;

(*j*) in section 32,—

(*i*) for the words and brackets "Appellate Tribunal or the Special Director (Appeals), as the case may be", at both the places where they occur, the words and brackets "Special Director (Appeals)" shall be substituted;

(*ii*) in sub-section (1), for the words and brackets "Appellate Tribunal or the Special Director (Appeals)", the words and brackets "Special Director (Appeals)" shall be substituted;

(*k*) for section 33, the following section shall be substituted, namely:—

"33. The Adjudicating Authority, Competent Authority and the Special Director (Appeals) and other officers and employees of the Special Director (Appeals) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.";

Officers and employees, etc., to be public servant.

45 of 1860

(*l*) in section 46, in sub-section (*2*),—

(*i*) in clause (*e*), for the words and brackets "Chairperson and other Members of the Appellate Tribunal and the Special Director (Appeals)", the words and brackets "Special Director (Appeals)" shall be substituted;

(*ii*) in clause (*f*), for the words and brackets "Appellate Tribunal and the office of the Special Director (Appeals)", the words and brackets "office of the Special Director (Appeals)" shall be substituted.

F.—AMENDMENTS TO THE AIRPORTS AUTHORITY OF INDIA ACT, 1994 AND THE CONTROL OF NATIONAL HIGHWAYS (LAND AND TRAFFIC) ACT, 2002.

166. In the Airports Authority of India Act, 1994,—

Amendment of Act 55 of 1994.

(*a*) in section 28-I, in sub-section (*1*), after the words "under this Act", the words, brackets and figures "and the Control of National Highways (Land and Traffic) Act, 2002" shall be inserted;

13 of 2003.

(*b*) after section 28J, the following section shall be inserted, namely:—

"28JA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson of the Tribunal

Qualifications, terms and conditions of service of Chairperson

appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

Amendment of Act 13 of 2003.

167. In the Control of National Highways (Land and Traffic) Act, 2002,—

(*a*) in section 2, for clause (*l*), the following clause shall be substituted, namely:—

'(*l*) "Tribunal" means the Airport Appellate Tribunal referred to in sub section (*1*) of section *5*;';

(*b*) in Chapter II, for the heading, the following heading shall be substituted, namely:—

"HIGHWAYS ADMINISTRATION AND TRIBUNALS, ETC.";

(*c*) in section 5,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Airport Appellate Tribunal established under section 28-I of the Airports Authority of India Act, 1994 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.";

55 of 1994.

(*ii*) in sub-section (*2*), for the words, brackets and figure "shall also specify, in the notification referred to in sub-section (*1*)", the words "shall specify, by notification in the Official Gazette", shall be substituted;

(*d*) sections 6, 7, 8, 9, 10, 11, 12 and 13 shall be omitted;

(*e*) for section 44, the following section shall be substituted, namely:—

Officers of Highways Administration to be public servant.

"44. The officer or officers constituting the Highways Administration and any other officer authorised by such Administration under this Act, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.";

45 of 1860

(*f*) in section 45, for the words "the Presiding Officer of the Tribunal or any other officer of the Central Government or an officer or employee of the Tribunal", the words "any other officer of the Central Government" shall be substituted;

(*g*) in section 50, in sub-section (*2*), clauses (*b*), (*c*), (*d*) and (*e*) shall be omitted.

G—AMENDMENTS TO THE TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997, THE INFORMATION TECHNOLOGY ACT, 2000 AND THE AIRPORTS' ECONOMIC REGULATORY AUTHORITY OF INDIA ACT, 2008.

Amendment of Act 24 of 1997.

168. In the Telecom Regulatory Authority of India Act, 1997,—

(*a*) in section 14, after clause (*b*), the following clause shall be inserted, namely:—

"(*c*) exercise jurisdiction, powers and authority conferred on—

(*i*) the Appellate Tribunal under the Information Technology Act, 2000; and

21 of 2000.

(*ii*) the Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008.":

27 of 2008.

(*b*) after section 14G, the following section shall be substituted, namely:—

Qualifications, terms and conditions of service of Chairperson and Member.

"14GA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

Amendment of Act 21 of 2000

169. In the Information Technology Act, 2000.—

(*a*) for the words "Cyber Appellate Tribunal", wherever they occur, the words "Appellate Tribunal" shall be substituted;

(*b*) in section 2, in sub-section (*1*),—

(*i*) *after* clause (*d*), the following clause shall be inserted, namely:—

'(*da*) "Appellate Tribunal" means the Appellate Tribunal referred to in sub-section (*1*) of section 48;';

(*ii*) clause (*n*) shall be omitted;

(*c*) in section 48,—

(*i*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"APPELLATE TRIBUNAL";

(*ii*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act.".

24 of 1997

(*iii*) in sub-section (*2*), for the words, brackets and figure "shall also specify, in the notification referred to in sub-section (*1*)", the words "shall specify, by notification" shall be substituted;

(*d*) sections 49, 50, 51, 52, 52A, 52B, 52C, 53, 54 and 56, shall be omitted;

(*e*) for section 82, the following section shall be substituted, namely:—

Controller, Deputy Controller and Assistant Controller to be public servants.

"82. The Controller, the Deputy Controller and the Assistant Controllers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.";

45 of 1860.

(*f*) in section 84, for the words "the Chairperson, Members, adjudicating officers and the staff of the Cyber Appellate Tribunal", the words "and adjudicating officers" shall be substituted;

(*g*) in section 87, in sub-section (*2*), clauses (*r*), (*s*) and (*t*) shall be omitted.

Amendment of Act 27 of 2008

170. In the Airports Economic Regulatory Authority of India Act, 2008,—

(*a*) in the long title, the words "and also to establish Appellate Tribunal to adjudicate disputes and dispose of appeals" shall be omitted;

(*b*) in section 2, for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "Appellate Tribunal" means the Telecom Disputes Settlement and Appellate Tribunal referred to in section 17;',

(*c*) in section 17,—

(*i*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"APPELLATE TRIBUNAL"

(*ii*) for the portion beginning with the words "The Central Government" and ending with words "Appellate Tribunal", the words and figures "The Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall exercise the jurisdiction, powers and authority conferred on it by or under this Act" shall be substituted; 24 of 1997.

(*d*) sections 19, 20, 21, 22, 23, 24, 25, 26 and 27 shall be omitted;

(*e*) in section 51, in sub-section (*2*), clauses (*i*), (*j*) and (*k*) shall be omitted.

H.—AMENDMENTS TO THE COMPETITION ACT, 2002 AND THE COMPANIES ACT, 2013.

Amendment of Act 12 of 2003.

171. In the Competition Act, 2002,—

(*a*) in section 2, for clause (*ba*), the following clause shall be substituted, namely:—

'(*ba*) "Appellate Tribunal" means the National Company Law Appellate Tribunal referred to in sub-section (*1*) of section 53A;';

(*b*) in Chapter VIIIA, for the heading, the following heading shall be substituted, namely:—

"APPELLATE TRIBUNAL";

(*c*) for section 53A, the following section shall be substituted, namely:—

Appellate Tribunal

"53A. The National Company Law Appellate Tribunal constituted under section 410 of the Companies Act, 2013 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall— 18 of 2013.

(*a*) hear and dispose of appeals against any direction issued or decision made or order passed by the Commission under sub-sections (2) and (6) of section 26, section 27, section 28, section 31, section 32, section 33, section 38, section 39, section 43, section 43A, section 44, section 45 or section 46 of this Act; and

(*b*) adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal in an appeal against any finding of the Commission or under section 42A or under sub-section (2) of section 53Q of this Act, and pass orders for the recovery of compensation under section 53N of this Act.";

(*d*) sections 53C, 53D, 53E, 53F, 53G, 53H, 53-I, 53J, 53K, 53L, 53M and 53R shall be omitted;

(*e*) in section 63, in sub-section (2), clauses (*mb*), (*mc*) and (*md*) shall be omitted.

Amendment of Act 18 of 2013.

172. In the Companies Act, 2013,—

(*a*) in section 410, for the words "for hearing appeals against the orders of the Tribunal", the following shall be substituted, namely:—

"for hearing appeals against.—

(*a*) the order of the Tribunal under this Act; and

(*b*) any direction, decision or order referred to in section 53N of the Competition Act, 2002 in accordance with the provisions of that Act.";

12 of 2003.

(*b*) after section 417, the following section shall be inserted, namely: —

Qualifications, terms and conditions of service of Chairperson and Member.

"417A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairperson and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force."

I.—AMENDMENT TO THE CINEMATOGRAPH ACT, 1952

Amendment of Act 37 of 1952.

173. In the Cinematograph Act, 1952, after section 5D, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairman and Member

"5E. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman and other members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman and member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

J.—AMENDMENTS TO THE INCOME-TAX ACT, 1961

Amendment of Act 43 of 1961

174. In the Income Tax Act, 1962,—

(*a*) after section 245-O, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of Chairman Vice-Chairman and Member.

"245OA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman, Vice-Chairman and other Members of the Authority appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman, Vice-Chairman and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made

thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force ";

(*b*) after section 252, the following section shall be inserted, namely.—

Qualifications, terms and conditions of service of President, Vice-President and Member.

"252A Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President, Vice-President and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.";

K.—AMENDMENT TO THE CUSTOMS ACT, 1962

Amendment of Act 52 of 1962.

175. In the Customs Act, 1962, in section 129, after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President, Vice-President or other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President, Vice-President and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

L.—AMENDMENT TO THE ADMINISTRATIVE TRIBUNALS ACT, 1985

Amendment of Act 13 of 1985.

176. In the Administrative Tribunals Act, 1985, after section 10A, the following section shall be inserted, namely.—

Qualifications, terms and conditions of service of Chairman and Member.

"10B. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman and other Members of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the Chairman and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

M—AMENDMENT TO THE CONSUMER PROTECTION ACT, 1986

Amendment of Act 68 of 1986.

177. In the Consumer Protection Act, 1986, *after* section 22D, the following section shall be inserted, namely:—

Qualifications, terms and conditions of service of President and Member.

"22E. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the President and other members of the

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National Commission appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

Provided that the President and member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

N.—AMENDMENT TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

178. In the Securities and Exchange Board of India Act, 1992, after section 15Q, the following section shall be inserted, namely:— Amendment of Act 15 of 1992.

"15QA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer and other Members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act: Qualifications, terms and conditions of service of Presiding Officer and Member.

Provided that the Presiding Officer and Member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

O.—AMENDMENTS TO THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993

179. In the Recovery of Debts due to Banks and Financial Institutions Act, 1993,— Amendment of Act 51 of 1993.

(*a*) after section 6, the following section shall be inserted, namely:—

"6A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act: Qualifications, terms and conditions of service of Presiding Officer.

Provided that the Presiding Officer appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.";

(*b*) after section 15, the following section shall be inserted, namely:—

"15A. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the terms and conditions of service of the Chairperson of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act: Qualifications, terms and conditions of service of Chairperson

Provided that the Chairperson appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.".

other Authorities specified in column (3) of the said Schedule and the said Tribunal, Appellate Tribunal or other Authority shall, on and from the appointed day, deal with *de novo* or from the stage at which such appeal, application or proceeding stood before the date of their transfer and shall dispose them in accordance with the provisions of the Act specified in column (2) of the said Schedule.

(5) The balance of all monies received by, or advanced to the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule and not spent by it before the appointed day, shall, on and from the appointed day, stand transferred to an vest in the Central Government which shall be utilised for the purposes stated in sub-section (7).

(6) All property of whatever kind owned by, or vested in, the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule before the appointed day, shall stand transferred to, on and from the appointed day, and shall vest in the Central Government.

(7) All liabilities and obligations of whatever kind incurred by the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule and subsisting immediately before the appointed day, shall, on and from the appointed day, be deemed to be the liabilities or obligations, as the case may be, of the corresponding Tribunal, Appellate Tribunal or other Authorities specified in column (3) of the Ninth Schedule; and any proceeding or cause of action, pending or existing immediately before the appointed day by or against the Tribunal, Appellate Tribunal or other Authorities specified in column (2) of the Ninth Schedule in relation to such liability or obligation may, on and from the appointed day, be continued or enforced by or against the corresponding Tribunal, Appellate Tribunal or other Authority specified in column (3) of the Ninth Schedule.

General Power to make rules

186. Without prejudice to any other power to make rules contained elsewhere in this Part, the Central Government may, by notification, make rules generally to carry out the provisions of this Part.

Power to amend Eighth Schedule.

187. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may by notification published in the Official Gazette, amend the Eighth Schedule and thereupon the said Schedule shall be deemed to have been amended accordingly

(2) A copy of every notification issued under sub-section (1) shall be laid before each House of Parliament as soon as may be after it is issued.

Rules to be laid before Parliament.

188. Every rule made under this Part shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Removal of difficulties.

189. (1) If any difficulty arises in giving effect to the provisions of this Part, the Central Government, may by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Part as appear to it to be necessary or expedient for removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiry of three years from the appointed day.

(3) Every order made under this section shall, as soon as may be after it is made, be laid before each Houses of Parliament.".

THE FIRST SCHEDULE

(*See* section 2)

PART I

INCOME-TAX

Paragraph A

(*I*) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 2,50,000	*Nil;*
(*2*) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 2,50,000,
(*3*) where the total income exceeds Rs 5,00,000 but does not exceed Rs. 10,00,000	Rs. 25,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*4*) where the total income exceeds Rs. 10,00,000	Rs. 1,25,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

(*II*) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 3,00,000	*Nil;*
(*2*) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	10 per cent. of the amount by which the total income exceeds Rs. 3,00,000;
(*3*) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 20,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*4*) where the total income exceeds Rs. 10,00,000	Rs. 1,20,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

(*III*) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 5,00,000	*Nil;*
(*2*) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*3*) where the total income exceeds Rs. 10,00,000	Rs. 1,00,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, having a total income exceeding one crore rupees, be increased by a surcharge for the purpose of the Union calculated at the rate of fifteen per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(*1*) where the total income does not exceed Rs.10,000	10 per cent of the total income;
(*2*) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000	Rs.1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs.10,000;
(*3*) where the total income exceeds Rs. 20,000	Rs 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	30 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	30 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

(i) where its total turnover or the gross receipt in the previous year 2014-15 does not exceed five crore rupees; — 29 per cent. of the total Income

(ii) other than that referred to in item (i) — 30 per cent of the total Income

II. In the case of a company other than a domestic company,—

(*i*) on so much of the total income as consists of,—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government — 50 per cent.;

(*ii*) on the balance, if any, of the total income — 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, be increased by a surcharge for the purposes of the Union calculated,—

(*i*) in the case of every domestic company,—

(*a*) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of seven per cent. of such income-tax; and

(*b*) having a total income exceeding ten crore rupees, at the rate of twelve per cent. of such income-tax;

(*ii*) in the case of every company other than a domestic company,—

(*a*) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

(*b*) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D , 194LBA, 194LBB, 194LBC and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rate of income-tax
1. In the case of a person other than a company—	
(*a*) where the person is resident in India—	
(*i*) on income by way of interest other than "Interest on securities"	10 per cent.,

	Rate of income-tax
(*ii*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*iii*) on income by way of winnings from horse races	30 per cent.;
(*iv*) on income by way of insurance commission	5 per cent.;
(*v*) on income by way of interest payable on—	10 per cent.;
(*A*) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(*B*) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;	
(*C*) any security of the Central or State Government;	
(*vi*) on any other income	10 per cent.;
(*b*) where the person is not resident in India—	
(*i*) in the case of a non-resident Indian—	
(*A*) on any investment income	20 per cent.;
(*B*) on income by way of long-term capital gains referred to in section 115E or sub-clause (*iii*) of clause (*c*) of sub-section (*1*) of section 112	10 per cent.;
(*C*) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(*D*) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10]	20 per cent.;
(*E*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;
(*F*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;
(*G*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*i*)(*F*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved	10 per cent.;

	Rate of income-tax
by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	
(*H*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;
(*I*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*J*) on income by way of winnings from horse races	30 per cent.;
(*K*) on the whole of the other income	30 per cent.:
(*ii*) in the case of any other person—	
(*A*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.:
(*B*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;
(*C*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*ii*)(*B*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.;
(*D*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy	10 per cent.:

	Rate of income-tax
(*E*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*F*) on income by way of winnings from horse races	30 per cent.;
(*G*) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(*H*) on income by way of long-term capital gains referred to in sub-clause (*iii*) of clause (*c*) of sub-section (*1*) of section 112	10 per cent.;
(*I*) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10]	20 per cent.;
(*J*) on the whole of the other income	30 per cent.;
2. In the case of a company—	
(*a*) where the company is a domestic company—	
(*i*) on income by way of interest other than "Interest on securities"	10 per cent.;
(*ii*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent ;
(*iii*) on income by way of winnings from horse races	30 per cent.;
(*iv*) on any other income	10 per cent.,
(*b*) where the company is not a domestic company—	
(*i*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(*ii*) on income by way of winnings from horse races	30 per cent.;
(*iii*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency (not being income by way of interest referred to in section 194LB or section 194LC)	20 per cent.;
(*iv*) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (*1A*) of section 115A of the Income-tax Act, to a person resident in India	10 per cent.;
(*v*) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*iv*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	

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	Rate of income-tax
(*A*) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent ;
(*B*) where the agreement is made after the 31st day of March, 1976	10 per cent.;
(*vi*) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(*A*) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(*B*) where the agreement is made after the 31st day of March, 1976	10 per cent.;
(*vii*) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(*viii*) on income by way of long-term capital gains referred to in sub-clause (*iii*) of clause (*c*) of sub-section (*1*) of section 112	10 per cent.;
(*ix*) on income by way of other long-term capital gains [not being long-term capital gains referred to in clauses (*33*), (*36*) and (*38*) of section 10]	20 per cent.,
(*x*) on any other income	40 per cent.

Explanation.— For the purposes of item 1(*b*)(*i*) of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(*i*) item 1 of this Part, shall be increased by a surcharge, for the purposes of the Union,—

(*a*) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, being a non-resident, calculated,—

I. at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds fifty lakh rupees but does not exceed one crore rupees;

II. at the rate of fifteen per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees: and

(*b*) in the case of every co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent., where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(*ii*) Item 2 of this Part shall be increased by a surcharge, for the purposes of the Union, in the case of every company other than a domestic company, calculated,—

(*a*) at the rate of two per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees; and

(*b*) at the rate of five per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

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PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (*4*) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or section 115JC or Chapter XII-FA or Chapter XII-FB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever applicable, on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BA or section 115BB or section 115BBA or section 115BBC or section 115BBD or section 115BBDA or section 115BBE or section 115BBF or section 115BBG or section 115E or section 115JB or section 115JC] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(*I*) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 2,50,000	*Nil*;
(*2*) where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000	5 per cent. of the amount by which the total income exceeds Rs. 2,50,000;
(*3*) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 12,500 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*4*) where the total income exceeds Rs. 10,00,000	Rs. 1,12,500 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 10,00,000.

(*II*) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 3,00,000	*Nil*;
(*2*) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	5 per cent. of the amount by which the total income exceeds Rs. 3,00,000;
(*3*) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	Rs. 10,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*4*) where the total income exceeds Rs. 10,00,000	Rs. 1,10,000 *plus* 30 per cent of the amount by which the total income exceeds Rs. 10,00,000.

(*III*) In the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 5,00,000	*Nil*;
(2) where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000	20 per cent. of the amount by which the total income exceeds Rs. 5,00,000;
(*3*) where the total income exceeds Rs. 10,00,000	Rs. 1,00,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs 10,00,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall be increased by a surcharge for the purposes of the Union, calculated, in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act,—

(*a*) having a total income exceeding fifty lakh rupees but not exceeding one crore rupees, at the rate of ten per cent. of such income-tax; and

(*b*) having a total income exceeding one crore rupees, at the rate of fifteen per cent. of such income-tax:

Provided that in the case of persons mentioned above having total income exceeding,—

(*a*) fifty lakh rupees but not exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of fifty lakh rupees by more than the amount of income that exceeds fifty lakh rupees;

(*b*) one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(*1*) where the total income does not exceed Rs. 10,000	10 per cent. of the total income;
(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(*3*) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs. 20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every co-operative society, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every co-operative society mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	30 per cent

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every firm, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every firm mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent ;

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, in the case of every local authority, having a total income exceeding one crore rupees, be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax:

Provided that in the case of every local authority mentioned above having total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company,—

(*i*) where its total turnover or the gross receipt in the previous year 2015-16 does not exceed fifty crore rupees; 25 per cent. of the total income.;

(*ii*) other than that referred to in item (*i*) 30 per cent. of the total income..

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of,—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(*ii*) on the balance, if any, of the total income 40 per cent.;

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or the provisions of section 111A or section 112 of the Income-tax Act, shall, be increased by a surcharge for the purposes of the Union, calculated,—

(*i*) in the case of every domestic company,—

(*a*) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of seven per cent. of such income-tax; and

(*b*) having a total income exceeding ten crore rupees, at the rate of twelve per cent. of such income-tax.

(*ii*) in the case of every company other than a domestic company,—

(*a*) having a total income exceeding one crore rupees but not exceeding ten crore rupees, at the rate of two per cent. of such income-tax; and

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(*b*) having a total income exceeding ten crore rupees, at the rate of five per cent. of such income-tax:

Provided that in the case of every company having a total income exceeding one crore rupees but not exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided further that in the case of every company having a total income exceeding ten crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

PART IV

[See section 2 (*13*)(*c*)*]*

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (*a*) of clause (*1A*) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (*2*) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (*3*), (*3A*) and (*4*) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (*b*) or sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (*3*), (*3A*) and (*4*) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(*a*) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent of such income shall be regarded as the agricultural income of the assessee;

(*b*) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(*c*) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(*1*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2017, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2009 or the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016, is a loss, then, for the purposes of sub-section (*2*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2015 or the 1st day of April, 2016,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2015, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2016,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2016,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2017.

(*2*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2018, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing

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on the 1st day of April, 2010 or the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017, is a loss, then, for the purposes of sub-section (*10*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2010, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2011 or the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2011, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2012 or the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2012, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2013 or the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2013, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2014 or the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2014, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2015 or the 1st day of April, 2016 or the 1st day of April, 2017,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2015, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2016 or the 1st day of April, 2017,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2016, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2017,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2017,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2018.

(*3*) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (*1*) or sub-rule (*2*) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*).

(*4*) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in the First Schedule to the Finance (No. 2) Act, 2009 (33 of 2009) or the First Schedule to the Finance Act, 2010 (14 of 2010) or the First Schedule to the Finance Act, 2011 (8 of 2011) or the First Schedule to the Finance Act, 2012 (23 of 2012) or the First Schedule to the Finance Act, 2013 (17 of 2013) or the First Schedule to the Finance (No. 2) Act, 2014 (25 of 2014) or the First Schedule to the Finance Act, 2015 (20 of 2015) or the First Schedule to the Finance Act, 2016 (28 of 2016) shall be set off under sub-rule (*1*) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

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Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

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THE SECOND SCHEDULE

[*See* section 110 (*a*)]

In the First Schedule to the Customs Tariff Act,—

(*a*) in Chapter 20, for the entry in column (4) occurring against tariff item 2008 19 10, the entry "45%" shall be substituted;

(*b*) in Chapter 84, for the entry in column (4) occurring against tariff item 8421 99 00, the entry "10%" shall be substituted.

THE THIRD SCHEDULE

[*See* section 110(*b*)]

In the First Schedule to the Customs Tariff Act,—

Tariff item	Description of goods	Unit	Rate of Duty Standard	Preferential
(1)	(2)	(3)	(4)	(5)
(1) in Chapter 11, for tariff item 1106 10 00 and the entries relating thereto, the following shall be substituted, namely:—				
"1106 10	- Of the dried leguminous vegetables of heading 0713			
1106 10 10	— Guar Meal	kg.	30%	-
1106 10 90	— Others	kg.	30%	-",
(2) in Chapter 13, tariff items 1302 32 10 and 1302 32 20 and the entries relating thereto shall be omitted;				
(3) in Chapter 15, after tariff item 1511 90 20 and the entries relating thereto, the following tariff item and entries shall be inserted, namely:—				
"1511 90 30	— Refined bleached deodorised palm stearin	kg.	100%	90%".
(4) in Chapter 38.—				
(*a*) in heading 3823, for sub-heading 3823 11 and tariff items 3823 11 11 to 3823 11 90 and the entries relating thereto, the following shall be substituted, namely:—				
"3823 11 00	— Stearic acid	kg.	30%	-";
(*b*) in heading 3824, against tariff item 3824 88 00, in column (2), for the words "hexa-hepta-", the words "hexa-, hepta-" shall be substituted;				
(5) in Chapter 39, in heading 3904, for sub-heading 3904 00 and tariff items 3904 10 10 and 3904 10 90, sub-heading 3904 21, tariff items 3904 21 10 and 3904 21 90 and sub-heading 3904 22, tariff items 3904 22 10 and 3904 22 90 and the entries relating thereto, the following shall be substituted, namely:—				
"3904 10	- ***Poly (vinyl chloride), not mixed with any other substances:***			
3904 10 10	— Emulsion grade PVC resin / PVC Paste resin/ PVC dispersion resin	kg.	10%	-
3904 10 20	— Suspension grade PVC resin	kg.	10%	-
3904 10 90	— Other	kg.	10%	-
	- ***Other poly (vinyl chloride), mixed with other substances:***			
3904 21 00	— Non-plasticised	kg.	10%	-
3904 22 00	— Plasticised	kg.	10%	-";
(6) in Chapter 44, against tariff item 4401 22 00, in column (2), for the words "agglomerated, in logs", the words "agglomerated in logs" shall be substituted;				
(7) in Chapter 48, in Note 4, for the word "apply", the word "applies" shall be substituted;				
(8) in Chapter 54, tariff items 5402 59 10 and 5402 69 30 and the entries relating thereto shall be omitted;				

(9) in Chapter 63, in sub-heading Note, for the words "from fabrics", the words "from warp knit fabrics" shall be substituted;

(10) in Chapter 98,—

(*i*) in Chapter Note 4, for clauses (*b*) and (*c*), the following clauses shall be substituted, namely.—

"(*b*) alcoholic beverages; and

(*c*) tobacco and manufactured products thereof.";

(*ii*) for the entry in column (2) occurring against heading 9804, the entry "All dutiable goods imported for personal use" shall be substituted.

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THE FOURTH SCHEDULE

(*See* section 111)

In the Second Schedule to the Customs Tariff Act, after Sl. No. 23B and the entries relating thereto, the following Sl. No. and entries shall be inserted, namely:—

(1)	(2)	(3)	(4)
"23C	2606 00 90	Other aluminium ores and concentrates	30%".

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THE FIFTH SCHEDULE

(*See* section 119)

In the First Schedule to the Central Excise Tariff Act, in Chapter 24,—

(*a*) for the entry in column (4) occurring against tariff items 2402 10 10 and 2402 10 20, the entry "12.5% or Rs.4006 per thousand, whichever is higher" shall be substituted;

(*b*) for the entry in column (4) occurring against tariff item 2402 90 10, the entry "Rs.4006 per thousand" shall be substituted;

(*c*) for the entry in column (4) occurring against tariff items 2402 90 20 and 2402 90 90, the entry "12.5% or Rs.4006 per thousand, whichever is higher" shall be substituted.

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THE SIXTH SCHEDULE

(*See* section 129)

Sl. No.	Provisions of the Service Tax (Determination of Value) Rules, 2006 to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)	(4)
1.	Rule 2A as inserted by notification number G.S.R. 375(*E*), dated the 22nd May, 2007 [29/2007– Service Tax, dated the 22nd May, 2007].	In the Service Tax (Determination of Value) Rules, 2006, in rule 2A,—	
		(I) in sub-rule (*1*), in clause (*i*), after the words "value of transfer of property in goods", the words "or in goods and land or undivided share of land, as the case may be," shall be inserted;	1st day of July, 2010 to 30th day of June, 2012 (both days inclusive).
		(II) after sub-rule (*1*), the following sub-rule shall be inserted, namely:—	1st day of July, 2010 to 30th day of June, 2012 (both days inclusive).
		"(*2*) Where the value has not been determined under sub-rule (*1*) and the gross amount charged includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the gross amount charged for the works contract, subject to the following conditions, namely:—	
		(*i*) the CENVAT Credit of duty paid on inputs or capital goods or the CENVAT Credit of service tax on input services, used for providing such taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004;	
		(*ii*) the service provider has not availed the benefit under the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2003-Service Tax, dated the 20th June, 2003 [G.S.R. 503(*E*), dated the 20th June, 2003].	
		Explanation —For the purposes of this sub-rule, the gross amount charged shall include the value of goods and materials supplied or provided or used for providing the taxable service by the service provider."	

(1)	(2)	(3)	(4)
2	Rule 2A as substituted by notification number G.S.R. 431(*E*), dated the 6th June, 2012. [24/2012– Service Tax, dated the 6th June, 2012].	In the Service Tax (Determination of Value) Rules, 2006, in rule 2A,—	
		(I) in clause (*i*), after the words "value of property in goods", the words "or in goods and land or undivided share of land, as the case may be," shall be inserted;	1st day of July, 2012 onwards.
		(II) in clause (*ii*), in sub-clause (*A*),—	1st day of July, 2012 to 28th day of February, 2013 (both days inclusive).
		(*a*) the following proviso shall be inserted, namely:—	
		"Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the total amount charged for the works contract.";	
		(*b*) for the proviso, the following provisos shall be substituted, namely:—	1st day of March, 2013 to 7th day of May, 2013 (both days inclusive).
		"Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on thirty per cent. of the total amount charged for the works contract:	
		Provided further that in case of works contract for construction of residential units having carpet area up to 2000 square feet or where the amount charged per residential unit from service recipient is less than rupees one crore and the amount charged for the works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the total amount charged for the works contract.";	
		(*c*) for the provisos, the following provisos shall be substituted, namely:—	8th day of May, 2013 to 31st day of March, 2016 (both days inclusive).
		"Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on	

(1)	(2)	(3)	(4)
		thirty per cent. of the total amount charged for the works contract: Provided further that in case of works contract for construction of residential units having carpet area up to 2000 square feet and where the amount charged per residential unit from service recipient is less than rupees one crore and the amount charged for the works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the total amount charged for the works contract."; (*d*) for the provisos, the following proviso shall be substituted, namely:— "Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on thirty per cent. of the total amount charged for the works contract.".	1st day of April, 2016 onwards.

THE SEVENTH SCHEDULE

(*See* section 150)

In the Seventh Schedule to the Finance Act, 2005,—

(*a*) for the entry in column (4) occurring against tariff item 2402 20 10, the entry "Rs. 311 per thousand" shall be substituted;

(*b*) for the entry in column (4) occurring against tariff item 2402 20 20, the entry "Rs. 541 per thousand" shall be substituted;

(*c*) for the entry in column (4) occurring against tariff item 2402 20 30, the entry "Rs. 311 per thousand" shall be substituted;

(*d*) for the entry in column (4) occurring against tariff item 2402 20 40, the entry "Rs. 386 per thousand" shall be substituted;

(*e*) for the entry in column (4) occurring against tariff item 2402 20 50, the entry "Rs. 541 per thousand" shall be substituted;

(*f*) for the entry in column (4) occurring against tariff item 2402 20 90, the entry "Rs. 811 per thousand" shall be substituted;

(*g*) for the entry in column (4) occurring against tariff items 2403 99 10, 2403 99 30 and 2403 99 90, the entry "12%" shall be substituted.

THE EIGHTH SCHEDULE

[*See* sections 183 and 184]

S.No.	Tribunal/Appellate Tribunal/Board/Authority	Acts
(1)	(2)	(3)
1.	Industrial Tribunal constituted by the Central Government.	The Industrial Disputes Act, 1947 (14 of 1947)
2.	Income-Tax Appellate Tribunal	The Income-Tax Act, 1961 (43 of 1961)
3.	Customs, Excise and Service Tax Appellate Tribunal	The Customs Act, 1962 (52 of 1962)
4.	Appellate Tribunal.	The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (13 of 1976)
5.	Central Administrative Tribunal	The Administrative Tribunals Act, 1985 (13 of 1985)
6.	Railway Claims Tribunal	The Railway Claims Tribunal Act, 1987 (54 of 1987)
7.	Securities Appellate Tribunal	The Securities and Exchange Board of India Act, 1992 (15 of 1992)
8.	Debts Recovery Tribunal	The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993)
9.	Debts Recovery Appellate Tribunal	The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993)
10.	Airport Appellate Tribunal	The Airport Authority of India Act, 1994 (55 of 1994)
11.	Telecom Disputes Settlement and Appellate Tribunal	The Telecom Regulatory Authority of India Act, 1997 (24 of 1997)
12.	Appellate Board	The Trade Marks Act, 1999 (47 of 1999)
13.	National Company Law Appellate Tribunal	The Companies Act, 2013 (18 of 2013)

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(1)	(2)	(3)
14.	Authority for Advance Ruling	The Income Tax Act, 1961 (43 of 1961)
15.	Film Certification Appellate Tribunal	The Cinematograph Act, 1952 (37 of 1952)
16.	National Consumer Disputes Redressal Commission	The Consumer Protection Act, 1986 (68 of 1986)
17.	Appellate Tribunal for Electricity	The Electricity Act, 2003 (36 of 2003)
18	Armed Forces Tribunal	The Armed Forces Act, 2007 (55 of 2007)
19.	National Green Tribunal	The National Green Tribunal Act, 2010 (19 of 2010).

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THE NINTH SCHEDULE

[*See* section 185]

Sl. No.	Tribunal/ Appellate Tribunal under the Acts	Tribunal/ Appellate Tribunal/ Authority to exercise the jurisdiction under the Acts.
(1)	(2)	(3)
1.	The Employees Provident Fund Appellate Tribunal under the Employees Provident Funds and Miscellaneous Provisions Act, 1952.	The Industrial Tribunal constituted by the Central Government under the Industrial Disputes Act, 1947.
2.	The Copyright Board under the Copyright Act, 1957.	The Intellectual Property Appellate Board under the Trade Marks Act, 1999.
3.	The Railway Rates Tribunal under the Railways Act, 1989.	The Railway Claims Tribunal under the Railway Claims Tribunal Act, 1987.
4	The Appellate Tribunal for Foreign Exchange under the Foreign Exchange Management Act, 1999.	The Appellate Tribunal under the Smuggfers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976.
5.	The National Highways Tribunal under the Control of National Highways (Land and Traffic) Act, 2002.	The Airport Appellate Tribunal under the Airport Authority of India Act, 1994.
6.	(A) The Cyber Appellate Tribunal under the Information Technology Act, 2000. (B) The Airports Economic Regulatory Authority Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008.	The Telecom Disputes Settlement and Appellate Tribunal under the Telecom Regulatory Authority of India Act, 1997.
7.	The Competition Appellate Tribunal under the Competition Act, 2002	The National Company Law Appellate Tribunal under the Companies Act, 2013.".

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

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अधिसूचना

नई दिल्ली, 11 अक्तूबर, 2017

फा.आ 3290(अ).—सेवाओं या फायदों या सहायिकियों के परिदान के लिए एक पहचान दस्तावेज के रूप में आधार का उपयोग सरकारी परिदान प्रक्रियाओं का सरलीकरण करता है, पारदर्शिता और दक्षता लाता है और फायदाग्राहियों को सुविधापूर्वक और विधि रीति में उनकी हकदारियों को सीधे प्राप्त करने में समर्थ बनाता है और आधार किसी व्यक्ति की पहचान को साबित करने के लिए बहुल दस्तावेज प्रस्तुत करने की आवश्यकता को समाप्त करता है;

और भारत सरकार में वाणिज्य और उद्योग मंत्रालय के अधीन वाणिज्य विभाग (जिसे इसमें इसके पश्चात विभाग कहा गया है) देश भर में समुद्री उत्पाद उद्योग के सम्पूर्ण विकास के मुख्य उद्देश्य से 'समुद्री उत्पाद निर्यात विकास' (जिसे इसमें इसके पश्चात स्कीम कहा गया है) नामक केंद्रीय क्षेत्र की एक स्कीम के अधीन 'समुद्री उत्पाद निर्यात विकास प्राधिकरण' को सहायता अनुदान और सहायिकियाँ प्रदान करता है;

और स्कीम के अधीन समुद्री उत्पाद निर्यात विकास प्राधिकरण (जिसे इसमे इसके पश्चात कार्यान्वयन एजेंसी कहा गया है) को दी जाने वाली सहायता अनुदान का उपयोग, अन्य बातो के साथ –साथ स्कीम के मार्गदर्शक सिद्धांतों के अनुसार स्कीम के विभिन्न उप घटकों के अधीन मछुआरे, जलकृषि कृषकों, कामगारों, प्रौद्योगिकीविदों और व्यष्टिक निर्यातकों (जिसे इसमें इसके पश्चात फायदाग्राही कहा गया है) को प्रशिक्षण, फायदे प्रदान करने तथा जागरूकता कार्यक्रमों (जिसे इसमें इसके पश्चात एक साथ फायदाग्राही कहा गया है) के लिए किया जाता है:-

और, पूर्वोक्त स्कीम में भारत की संचित निधि से उपगत व्यय अंतर्वलित है।

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अत: अब केंद्रीय सरकार, आधार (वित्तीय और अन्य सहायिकियों, प्रसुविधाओं और सेवाओं का लक्ष्यित परिदान अधिनियम, 2016 (2016 का 18) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 7 के उपबंधों के अनुसरण में निम्नलिखित अधिसूचित करती है; अर्थात:

1. (1) इस स्कीम के अधीन फायदा प्राप्त करने के इच्छुक से यह अपेक्षित है कि वे आधार के कब्जे में होने का सबूत प्रस्तुत करें या आधार अधिप्रमाणन प्रक्रिया पूरी करें।

(2) इस स्कीम के अधीन फायदा प्राप्त करने के ऐसे किसी व्यक्ति को जिसके पास आधार संख्या नहीं है या जिसने अभी तक आधार हेतु नामांकन नहीं कराया है उससे अपेक्षित है कि वह 31 दिसंबर 2017 तक, आधार नामांकन कराने हेतु आवेदन करें, यदि वह उक्त अधिनियम की धारा 3 के उपबंधों के अनुसार आधार प्राप्त करने हेतु हकदार हो, उसे ऐसे व्यष्टि आधार हेतु नामांकन कराने के लिए किसी भी आधार नामांकन केंद्र [भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) पर सूची उपलब्ध है, वेबसाइट www.uidai.gov.in] पर जा सकते हैं।

(3) आधार (नामांकन और अद्यतन) विनियम, 2016 के विनियम 12 के अनुसार विभाग से यह अपेक्षित है कि वह अपनी कार्यान्वयन एजेंसी के माध्यम से ऐसे फायदाग्राहियों के बिना जिन्होंने अभी तक आधार नामांकन नहीं कराया है, आधार नामांकन कराने की सुविधाओं की प्रस्थापना करे और उस दशा मे जहां संबंधित ब्लाक या तालुका अथवा तहसील में आधार नामांकन केंद्र अवस्थित नहीं है वहां विभाग अपनी कार्यान्वयन एजेंसी के माध्यम से यूआईडीएआई के विद्यमान रजिस्ट्रारों के समन्वय से या रजिस्ट्रार स्वयं यूआईडीएआई बनकर सुविधाजनक अवस्थानों में आधार नामांकन सुविधाएं, उपलब्ध कराएगी:

परंतु ऐसे व्यष्टि को आधार समनुदेशित किए जाने तक इस स्कीम के अधीन निम्नलिखित दस्तावेज प्रस्तुत करने के अधीन रहते हुए फायदा दिए जाएंगे अर्थात:

(क) (i) यदि उसने आधार के लिए नामांकन कराया है तो उसके आधार नामांकन की आई डी स्लिप; अथवा

(ii) पैरा 2 के उप पैरा (2) में यथा विहित और आधार नामांकन कराने के लिए गए अनुरोध की एक प्रति

(ख) निम्नलिखित दस्तावेजों में से कोई एक:

(i) भारत के निर्वाचन आयोग द्वारा जारी मतदाता पहचान पत्र या

(ii) मोटर यान अधिनियम, 1988 (1988 का 59) के अधीन अनुज्ञापन प्राधिकारी द्वारा जारी चालान अनुज्ञप्ति

(iii) उस व्यक्ति की फोटो सहित पहचान प्रमाण पत्र जिसे राजपत्रित अधिकारी अथवा तहसीलदार द्वारा आधिकारिक पत्रशीर्ष पर जारी किया गया हो; या

(iv) आयकर विभाग द्वारा जारी स्थायी खाता संख्या (पैन) कार्ड; या

(v) पासपोर्ट; या

(vi) राशनकार्ड; या

(vii) फोटो सहित बैंक पासबुक अथवा पोस्ट आफिस पासबुक; या

(viii) विभाग द्वारा विनिर्दिष्ट कोई अन्य दस्तावेज;

परन्तु यह भी कि उपर्युक्त दस्तावेज विभाग द्वारा इस प्रयोजन के लिए विशेष रूप से अभिहित अधिकारी द्वारा जांचे जाएंगे:

2. इस स्कीम के अधीन फायदाग्राहियों को सुविधाजनक और निर्बाध फायदे प्रदान करने के लिए, विभाग अपनी क्रियान्वयन एजेंसी के माध्यम से सभी अपेक्षित प्रबंध करेगा जिसमें निम्नलिखित शामिल हैं अर्थात:-

(1) इस स्कीम के अधीन फायदा प्राप्त करने के लिए आधार की आवश्यकता के बारे में फायदाग्राहियों को जागरूक करने के लिए मीडिया के माध्यम से व्यापक प्रचार किया जाएगा और व्यष्टिक सूचना दी जाएगी तथा यदि उन्होंने पहले से अपना नामांकन नहीं कराया है तो 31 दिसंबर, 2017 तक अपने क्षेत्र में उपलब्ध निकटतम आधार नामांकन केंद्र पर अपना नामांकन कराने की सलाह दी जा सकेगी और उन्हें स्थानीय रूप से उपलब्ध नामांकन केंद्रों की सूची उपलब्ध कराई जाएगी ।

(2) यदि आस – पास के क्षेत्रो जैसे ब्लाक या तालुका या तहसील में नामांकन केंद्रों की अनुपलब्धता के कारण फायदाग्राही आधार के लिए नामांकन न करा पाए हों तो विभाग अपने कार्यान्वयन एजेंसी के माध्यम से सुविधाजनक अवस्थानों पर आधार नामांकन सुविधाएं प्रदान करेगा और फायदेग्राही अपना नाम, पता, मोबाइल नं. और पैरा 1 के उप पैरा (3) के प्रथम परन्तुक में यथाविनिर्दिष्ट अन्य विवरण देकर आधार नामांकन के लिए अपना अनुरोध कार्यान्वयन एजेंसी के अभिहित अधिकारियों के पास या इस प्रयोजन के लिए दिए गए वेबपोर्टल के माध्यम से रजिस्टर कराएगा ।

(3) यह अधिसूचना असम, मेघालय और जम्मू – कश्मीर राज्यों के सिवाय सभी राज्यों और संघ राज्य क्षेत्रों में उस तारीख से प्रवृत्त होगी जिस तारीख को यह राजपत्र में प्रकाशित होगी ।

[फा.सं. 11/3/2016- ईपी (एमपी)]

संतोष कुमार सारंगी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

(MARINE PRODUCTS EXPORT DEVELOPMENT AUTHORITY)

NOTIFICATION

New Delhi, the 11th October, 2017

S.O. 3290(E).—Whereas, the use of Aadhaar as identity document for delivery of services or benefits or subsidies simplifies the Government delivery processes, brings in transparency and efficiency, and enables beneficiaries to get their entitlements directly in a convenient and seamless manner and Aadhaar obviates the need for producing multiple documents to prove one's identity,

And whereas, the Department of Commerce (*hereinafter referred to as the Department*) under the Ministry of Commerce and Industry in the Government of India is providing Grants-in-Aid and subsidies to the Marine Products Export Development Authority under the Central Sector Scheme of "Marine Products Export Development" (*hereinafter referred to as the Scheme*) with the key objective of overall development of the marine products industry across the country;

And whereas, the Grants-in-Aid given to the Marine Products Export Development Authority (*hereinafter referred to as the Implementing Agency*) under the Scheme, *inter-alia*, is used for giving trainings, subsidies and awareness programs (*hereinafter referred to as the benefits*) to the Fishers, Aquaculture farmers, Workers, Technologists and the individual exporters (*hereinafter together referred to as the beneficiaries*) under various sub-components of the Scheme as per the extant Scheme guidelines;

And whereas, the aforesaid Scheme involves expenditure incurred from the Consolidated Fund of India,

Now, therefore, in pursuance of the provisions of section 7 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016) (*hereinafter referred to as the said Act*), the Central Government notifies the following, namely-

1. (1) An individual desirous of receiving the benefits under the Scheme is hereby required to furnish proof of possession of Aadhaar or undergo Aadhaar authentication.

(2) Any individual desirous of receiving the benefits under the Scheme who does not possess the Aadhaar number or, who has not yet enrolled for Aadhaar, shall be required to make an application for Aadhaar enrolment by 31st December, 2017 in case he or she is entitled to obtain Aadhaar as per the provisions of section 3 of the said Act, and such individuals may visit any Aadhaar Enrolment Centre (list available at Unique Identification Authority of India (UIDAI) www.uidai.gov.in) to get enrolled for Aadhaar.

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(3) As per regulation 12 of the Aadhaar (Enrolment and Update) Regulations, 2016, the Department through its Implementing Agency, is required to offer Aadhaar enrolment facilities for the beneficiaries who are not enrolled for Aadhaar, and in case there is no Aadhaar enrolment centre located in the respective Block or Taluka or Tehsil, the Department through its Implementing Agency shall provide Aadhaar enrolment facilities at convenient locations in coordination with the existing Registrars of UIDAI or by itself becoming UIDAI Registrar"

Provided that till the time Aadhaar is assigned to the individual, benefits under the Scheme shall be given to such individuals, subject to the production of the following documents, namely:-

(a) (i) If he or she has enrolled for Aadhaar, his or her Aadhaar Enrolment ID slip; or

(ii) A copy of the request made for Aadhaar enrolment, as specified in sub-paragraph (2) of paragraph 2; and

(b) any one of the following documents:

(i) Voter Identity Card issued by the Election Commission of India; or

(ii) Driving licence issued by the Licencing Authority under the Motor Vehicles Act, 1988 (59 of 1988); or

(iii) Certificate of identity having photo of such individual issued by a Gazetted Officer or a Tehsildar on an Official Letter Head; or

(iv) Permanent Account Number (PAN) Card issued by the Income Tax Department; or

(v) Passport; or

(vi) Ration Card; or

(vii) Bank Passbook or Post Office Passbook with photo; or

(viii) any other document specified by the Department"

Provided that the above documents shall be checked by an officer specifically designated by the Department through its Implementing Agency for that purpose.

2. In order to provide convenient and hassle free benefits to the beneficiaries under the scheme, the Department through its Implementing Agency shall make all the required arrangements including the following, namely:-

(1) wide publicity through media and individual notices shall be given to the beneficiaries to make them aware of the requirement of Aadhaar to receive the benefits under the Scheme and, in case they are not enrolled, they may be advised to get themselves enrolled at the nearest Aadhaar Enrolment Centre available in their areas by 31st December, 2017 and the list of locally available enrolment centres shall be made available to them.

(2) In case, the beneficiaries are not able to enrol due to non-availability of the enrolment centres within their vicinity such as in the Block or Taluka or Tehsil, the Department through its Implementing Agency shall provide Aadhaar enrolment facilities at convenient locations and beneficiaries may register their requests for enrolment by giving their names, addresses, mobile numbers and other details as specified in the first proviso to sub-paragraph (3) of paragraph 1, with the designated officials of the Implementing Agency or through the web portal provided for the purpose.

3. This notification shall come into effect from the date of its publication in the Official Gazette in all the States and Union territory Administrations except the States of Assam, Meghalaya and the State of Jammu and Kashmir.

[F. No. 11/3/2016-EP (MP)]

SANTOSH KUMAR SARANGI, Jt. Secy.

RAKESH SUKUL Digitally signed by RAKESH SUKUL Date: 2017.10.13 23:03:07 +05'30'

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भारत का राजपत्र
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(वाणिज्य विभाग)

(मसाला बोर्ड)

अधिसूचना

नई दिल्ली, 4 अक्तूबर, 2017

का.आ. 3244(अ).—सेवाओं या फायदों या सहायिकियों के परिदान के लिए एक पहचान दस्तावेज के रूप में आधार का उपयोग सरकारी परिदान प्रक्रियाओ का सरलीकरण करता है, पारदर्शिता और दक्षता लाता है और फायदाग्राहियों को सुविधापूर्वक और निर्बाध रीति में उनकी हकदारियों को सीधे प्राप्त करने मे समर्थ बनाता है और आधार किसी व्यक्ति की पहचान को साबित करने के लिए बहुल दस्तावेज प्रस्तुत करने की आवश्यकता को समाप्त करता है;

और भारत सरकार में वाणिज्य और उद्योग मंत्रालय के अधीन वाणिज्य विभाग (जिसे इसमें इसके पश्चात विभाग कहा गया है) इस स्कीम के कार्यान्वयन हेतु मसाला बोर्ड (जिसे इसमें इसके पश्चात कार्यान्वयन एजेंसी कहा गया है) को सहायता अनुदान प्रदान करके "केंद्रीय क्षेत्र स्कीम" (जिसे इसमे इसके पश्चात स्कीम कहा गया है) निम्नलिखित को प्रशासित करता है:—

मसाला निर्यात संवर्धन एवं गुणवत्ता सुधार हेतु एकीकृत स्कीम और इलायची अनुसंधान एवं विकास;

और, उपरोक्त स्कीम मौजूदा स्कीम के मार्गदर्शक सिद्धांतों के अनुसार स्कीम के विभिन्न उपसंघटकों के अधीन खेती के उपकरण, बीज, पौधे खरीदने, प्रौद्योगिकी उन्नयन, खेती उत्पादन के प्रसंस्करण तथा श्रमिकों के बच्चों के लिए फीस के नकद भुगतान, छात्रवृत्ति एवं पुरस्कार; और मसाला उपजकर्ताओ, कृषको, श्रमिकों, श्रमिकों के बच्चों तथा व्यष्टिक निर्यातकों (जिन्हें इसमें इसके पश्चात् सामूहिक रूप से फायदाग्राही कहा गया है) को कीट नियंत्रण कीटों, चिकित्सा फायदे, प्रक्षेत्रों का कार्बनिक प्रमाणन, मृदा विश्लेषण एवं प्रशिक्षण (जिन्हें इसमे इसके पश्चात् सामूहिक रूप से फायदा कहा गया है) के रूप में सहायता के लिए आर्थिक सहायता प्रदान करती है;

और, पूर्वोक्त स्कीम में भारत की संचित निधि से उपगत व्यय अन्तर्वलित है;

अतः, अब केन्द्रीय सरकार आधार (वित्तीय और अन्य सहायिकियों, प्रसुविधाओं और सेवाओ की लक्षित परिदान) अधिनियम, 2016) (2016 का 18) (जिसे इसमें इसके पश्चात अधिनियम कहा जाएगा) की धारा 7 के उपबंधों के अनुसरण मे निम्नलिखित अधिसूचित करती है; अर्थात् :—

1. (1) इस स्कीम के अधीन फायदा प्राप्त करने के लिए पात्र व्यष्टि से यह अपेक्षा है कि वह आधार संख्या रखने का सबूत प्रस्तुत करें या अधिप्रमाणन प्रक्रिया पूरी करें।

(2) इस स्कीम के अधीन फायदा प्राप्त करने का इच्छुक कोई भी व्यक्ति, जिसके पास आधार संख्या नहीं है अथवा जिसने अभी तक आधार नामांकन नहीं कराया है, को 31 दिसंबर, 2017 तक आधार नामांकन कराने हेतु आवेदन करना होगा, और यदि, वह उक्त अधिनियम की धारा 3 के उपबंधों के अनुसार आधार प्राप्त करने हेतु हकदार है, तो ऐसे व्यक्ति अपना आधार नामांकन कराने के लिए किसी भी आधार नामांकन केन्द्र [भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) पर सूची उपलब्ध है, वेबसाइट www.uidai.gov.in] पर जा सकते हैं।

(3) आधार (नामांकन और अद्यतन) विनियम, 2016 के विनियम 12 के अनुसार विभाग अपनी कार्यान्वयन एजेंसी के माध्यम से ऐसे फायदाग्राहियों के लिए जिन्होंने अभी तक आधार नामांकन नहीं कराया है, आधार नामांकन कराने की सुविधाओं की प्रस्थापना करे और उस दशा में, जहां उनके ब्लाक या तालुका या तहसील में कोई आधार नामांकन केन्द्र अवस्थित नहीं है, तो वहां विभाग अपना कार्यान्वयन एजेंसी के माध्यम से यूआईडीएआई के विद्यमान रजिस्ट्रारों के समन्वय से या रजिस्ट्रार स्वयं यूआईडीएआई बनकर सुविधाजनक अवस्थानों पर सुविधाएं उपलब्ध कराएगी।

परन्तु ऐसे व्यष्टि को आधार समनुदेशित किए जाने तक स्कीम के अधीन निम्नलिखित दस्तावेज प्रस्तुत करने के अधीन रहते हुए फायदे दिए जाएंगे, अर्थात् :—

(क) (i) यदि उसने आधार के लिए नामांकन करा लिया है तो उसके आधार नामांकन की आई डी स्लिप; या

(ii) निम्नलिखित पैरा 2 के उप पैरा (2) में विनिर्दिष्ट अनुसार आधार नामांकन के लिए किए गए अनुरोध की प्रति; और

(ख) (i) फोटो सहित बैंक पासबुक अथवा पोस्ट आफिस पासबुक ; या

(ii) मतदाता पहचान पत्र, या

(iii) स्थायी खाता संख्या (पैन) कार्ड; या

(iv) पासपोर्ट; या

(v) मोटर यान अधिनियम, 1988 (1988 का 59) के अधीन अनुज्ञापन प्राधिकारी द्वारा जारी चालन अनुज्ञप्ति; या

(vi) राशनकार्ड; या

(vii) एमजीएनआरईजीएस कार्ड; या

(viii) किसान फोटो पासबुक; या

(ix) ऐसे व्यक्ति की फोटो सहित पहचान पत्र जिसे राजपत्रित अधिकारी अथवा तहसीलदार द्वारा आधिकारिक पत्रशीर्ष पर जारी किया गया हो; या

(x) विभाग द्वारा विनिर्दिष्ट कोई अन्य दस्तावेज;

परन्तु यह और भी कि उपर्युक्त दस्तावेज विभाग अपने कार्यान्वयन एजेंसी के माध्यम से उस प्रयोजन के लिए विशेष रूप से अभिहित किसी अधिकारी द्वारा जांचे जाएंगे।

2. स्कीम के अधीन फायदाग्राहियो को सुविधाजनक और निर्बाध फायदे प्रदान करने के लिए विभाग अपने कार्यान्वयन एजेंसी के माध्यम से निम्नलिखित सहित सभी आवश्यक व्यवस्थाएं करेगा, अर्थात्:

(1) स्कीम के अधीन आधार की आवश्यकता के बारे में फायदाग्राहियों को जागरूक करने के लिए मीडिया के माध्यम से व्यापक प्रचार किया जाएगा और व्यष्टिक सूचना दी जाएगी तथा यदि उन्होंने पहले से अपना नामांकन नहीं कराया है तो उन्हें 31 दिसंबर, 2017 तक अपने क्षेत्र में उपलब्ध निकटतम आधार नामांकन केन्द्र पर अपना नामांकन कराने की सलाह दी जा सकेगी और उन्हें स्थानीय रूप से उपलब्ध नामांकन केन्द्रों की सूची उपलब्ध कराई जाएगी।

(2) यदि आस-पास के क्षेत्रों जैसे ब्लाक या तालुका या तहसील में नामांकन केन्द्रों की अनुपलब्धता के कारण फायदाग्राही इस स्कीम के अधीन नामांकन न करा पाए हों तो विभाग अपना कार्यान्वयन एजेंसी के माध्यम से सुविधाजनक अवस्थानों पर आधार नामांकन सुविधाएं प्रदान करेगा और फायदाग्राही अपने नाम, पता, मोबाइल नं. और पैरा 1 के उप पैरा (3) के प्रथम परन्तुक में यथा विनिर्दिष्ट अन्य विवरण देकर आधार

नामांकन के लिए अपने अनुरोध कार्यान्वयन एजेंसी के अभिहित पदधारियों के पास या इस प्रयोजन के लिए दिए गए वेबपोर्टल के माध्यम से रजिस्टर कराएंगे ।

(3) यह अधिसूचना असम, मेघालय और जम्मू-कश्मीर राज्यों के सिवाय सभी राज्यों और संघ राज्य क्षेत्रों में उस तारीख से प्रभावी होगी जिस तारीख को यह राजपत्र मे प्रकाशित होगी ।

[फा. सं. 3/1012/2015 बागान (समन्वय)]

संतोष कुमार सारंगी, संयुक्त सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

(SPICES BOARD)

NOTIFICATION

New Delhi, the 4th October, 2017

S.O. 3244(E).—Whereas, the use of Aadhaar as identity document for delivery of services or benefits or subsidies simplifies the Government delivery processes, brings in transparency and efficiency, and enables beneficiaries to get their entitlements directly in a convenient and seamless manner and Aadhaar obviates the need for producing multiple documents to prove one's identity;

And whereas, the Department of Commerce *(hereinafter referred to as the Department)* under the Ministry of Commerce and Industry in the Government of India is administering the following Central Sector Scheme *(hereinafter referred to as the Scheme)* by providing Grant-in-Aids to the Spices Board *(hereinafter referred to as the Implementing Agency)* for the implementation of the Scheme:

Integrated Scheme for Export promotion and quality improvement in spices and Research and Development of Cardamom;

And whereas, the aforesaid Scheme provide subsidy for buying farming equipment, seeds, plants, technology upgradation, processing of farming output and cash payment towards fees for labourers children, scholarships and awards; and in-kind assistance in the form of pest control kits, medical benefits, organic certification of farm, soil analysis, and training *(hereinafter collectively referred to as the benefits)* to the spice growers, farmers, labourers, children of labourers and the individual exporters *(hereinafter collectively referred to as the beneficiaries)* under various sub-components of the Scheme as per the extant Scheme guidelines;

And whereas, the aforesaid Scheme involve expenditures incurred from the Consolidated Fund of India;

Now, therefore, in pursuance of the provisions of section 7 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016) *(hereinafter referred to as the said Act)*, the Central Government hereby notifies the following, namely.-

1. (1) An individual eligible for receiving the benefits under the Schemes shall be required to furnish proof of possession of Aadhaar number or undergo Aadhaar authentication.

(2) Any Individual desirous of availing the benefits under the Schemes, who does not possess the Aadhaar number or has not yet enrolled for Aadhaar, shall have to apply for Aadhaar enrolment by 31st December, 2017, and in case, he or she is entitled to obtain Aadhaar as per the provisions of section 3 of the said Act, such persons may visit any Aadhaar enrolment centre [list available at Unique Identification Authority of India (UIDAI) website www.uidai.gov.in] to get enrolled for Aadhaar.

(3) As per regulation 12 of Aadhaar (Enrolment and Update) Regulations, 2016, the Department through its Implementing Agency, is required to offer Aadhaar enrolment facilities for the beneficiaries who are not yet enrolled for Aadhaar, and in case there is no Aadhaar enrolment centre located in the respective Block or Taluka or Tehsil, the Department through its Implementing

Agency shall provide Aadhaar enrolment facilities at convenient locations in coordination with the existing Registrars of UIDAI or by itself becoming UIDAI Registrar:

Provided that till the time Aadhaar is assigned to the individual, benefits under the Scheme shall be given to such individuals, subject to the production of the following documents, namely:–

(a) (i) if he or she or has enrolled, his or her Aadhaar Enrolment ID slip; or

(ii) a copy of his or her request made for Aadhaar enrolment, as specified in sub-paragraph (2) of paragraph 2 below; and

(b) (i) Bank Passbook or Post office Passbook with photo; or (ii) Voter ID Card; or (iii) Permanent Account Number (PAN) Card; or (iv) Passport; or (v) Driving licence issued by Licencing Authority under the Motor Vehicles Act, 1988 (59 of 1988); or (vi) Ration Card; or (vii) MGNREGS Card; or (viii) Kisan Photo Passbook, or (ix) Certificate of identity having photo of such person issued by a Gazetted Officer or a Tehsildar on their official letter head; or (x) any other document as specified by the Department:

Provided further that the above documents shall be checked by an officer specifically designated by the Department through its implementing agency for that purpose.

2. In order to provide convenient and hassle free benefits to the beneficiaries under the Scheme, the Department through its Implementing Agency, shall make all the required arrangements including the following, namely:-

(1) wide publicity through media and individual notices shall be given to the beneficiaries to make them aware of the requirement of Aadhaar under the Scheme and they may be advised to get themselves enrolled at the nearest Aadhaar enrolment centres available in their areas by 31st December, 2017, in case they are not already enrolled and the list of locally available enrolment centres shall be made available to them.

(2) in case, the beneficiaries are not able to enroll for Aadhaar due to non-availability of enrolment centres in the vicinity such as in the Block or Taluka or Tehsil, the Department through its Implementing Agency shall provide Aadhaar enrolment facilities at convenient locations, and the beneficiaries may register their requests for Aadhaar enrolment by giving their names, addresses, mobile numbers and other details as specified in the first proviso to sub-paragraph (3) of paragraph 1, with the designated officials of the Implementing Agency or through the web portal provided for the purpose.

3 This notification shall come into effect from the date of its publication in the Official Gazette in all the States and Union territories except the States of Assam, Meghalaya and the State of Jammu and Kashmir.

[F. No. 3/1012/2015-Plant (coord)]

SANTOSH KUMAR SARANGI, Jt. Secy.

(रबड़ बोर्ड)

अधिसूचना

नई दिल्ली, 4 अक्तूबर, 2017

का.आ. 3245(अ).—सेवाओं या फायदों या सहायिकियों के परिदान के लिए एक पहचान दस्तावेज के रूप में आधार का उपयोग सरकारी परिदान प्रक्रियाओं का सरलीकरण करता है, पारदर्शिता और दक्षता लाता है और 'फायदाग्राहियों को सुविधापूर्वक और निर्बाध रीति में उनकी हकदारियों को सीधे प्राप्त करने में समर्थ बनाता है और आधार किसी व्यक्ति की पहचान को साबित करने के लिए बहुल दस्तावेज प्रस्तुत करने की आवश्यकता को समाप्त करता है;

और भारत सरकार में वाणिज्य और उद्योग मंत्रालय के अधीन वाणिज्य विभाग (जिसे इसमें इसके पश्चात विभाग कहा गया है) देश भर में रबड़ उद्योग के सम्पूर्ण विकास के मुख्य उद्देश्य से 'प्राकृतिक रबड़ क्षेत्र का दीर्घकालिक एवं समावेशी विकास' (जिसे इसमें इसके पश्चात स्कीम कहा गया है) नामक केन्द्रीय क्षेत्र की एक स्कीम के अधीन रबड़ बोर्ड को सहायता अनुदान प्रदान कर रही है;

और यह विभाग इस स्कीम के कार्यान्वयन हेतु रबड़ बोर्ड (जिसे इसमें इसके पश्चात कार्यान्वयन एजेंसी कहा गया है) को सहायता अनुदान प्रदान करता है, जो, अन्य बातों के साथ-साथ, मौजूदा स्कीम के मार्गदर्शक सिद्धांतों के अनुसार स्कीम के विभिन्न उप घटकों के अधीन रबड़ उपजकर्ताओं, श्रमिकों, श्रमिकों के बच्चों, व्यष्टिक डीलरों एवं व्यष्टिक निर्यातकों (जिन्हें इसमें इसके पश्चात् फायदाग्राही कहा गया है) को सहायिकी एवं छात्रवृत्ति (जिसे इसमें इसके पश्चात् फायदा कहा गया है) प्रदान करता है;

और, पूर्वोक्त स्कीम में भारत की संचित निधि से उपगत व्यय अंतर्वलित है;

अत: अब, केन्द्रीय सरकार आधार (वित्तीय और अन्य सहायिकियों, प्रसुविधाओं और सेवाओं की लक्षित परिदान) अधिनियम, 2016 (2016 का 18) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 7 के उपबंधों के अनुसरण में निम्नलिखित अधिसूचित करती है; अर्थात् :—

1. (1) इस स्कीम के अधीन फायदा प्राप्त करने के इच्छुक व्यष्टि से यह अपेक्षा है कि वह आधार रखने का सबूत प्रस्तुत करे या आधार अधिप्रमाणन प्रक्रिया पूरी करे।

(2) स्कीम के के अधीन फायदा प्राप्त करने का इच्छुक कोई भी व्यष्टि, जिसके पास आधार संख्या नहीं है अथवा जिसने अभी तक आधार नामांकन नहीं कराया है, उसे 31 दिसंबर, 2017 तक, आधार नामांकन कराने हेतु आवेदन करना होगा, और यदि, वह उक्त अधिनियम की धारा 3 के उपबंधों के अनुसार आधार प्राप्त करने हेतु हकदार है, तो ऐसे व्यष्टि अपना आधार नामांकन कराने के लिए किसी भी आधार नामांकन केन्द्र [भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) पर सूची उपलब्ध है, वेबसाइट www.uidai.gov.in] पर जा सकते हैं।

(3) आधार (नामांकन और अद्यतन) विनियम, 2016 के विनियम 12 के अनुसार विभाग अपनी कार्यान्वयन एजेंसी के माध्यम से ऐसे फायदाग्राहियों के लिए जिन्होंने अभी तक आधार नामांकन नहीं कराया है, आधार नामांकन कराने की सुविधाओं की प्रस्थापना करे और उस दशा में, जहां उनके ब्लाक या तालुका या तहसील में कोई आधार नामांकन केन्द्र अवस्थित नहीं है, तो वहां विभाग अपना कार्यान्वयन एजेंसी के माध्यम से यूआईडीएआई के विद्यमान रजिस्ट्रारों के समन्वय से या रजिस्ट्रार स्वयं यूआईडीएआई बनकर सुविधाजनक अवस्थानों पर सुविधाएं उपलब्ध कराएगी।

परन्तु ऐसे व्यष्टि को आधार समनुदेशित किए जाने तक स्कीम के अधीन निम्नलिखित दस्तावेज प्रस्तुत करने के अधीन रहते हुए फायदे दिए जाएंगे, अर्थात् :—

(क) (i) यदि उसने आधार के लिए नामांकन करा लिया है तो उसके आधार पंजीकरण की आई डी स्लिप; या

(ii) निम्नलिखित पैरा 2 के उप पैरा (2) में यथा विनिर्दिष्ट अनुसार आधार नामांकन के लिए किए गए अनुरोध की प्रति; और

(ख) (i) फोटो सहित बैंक पासबुक अथवा पोस्ट आफिस पासबुक ; या

(ii) मतदाता पहचान पत्र, या

(iii) स्थायी खाता संख्या (पैन) कार्ड ; या

(iv) पासपोर्ट; या

(v) मोटर यान अधिनियम, 1988 (1988 का 59) के अधीन अनुज्ञापन प्राधिकारी द्वारा जारी चालन अनुज्ञप्ति; या

(vi) राशनकार्ड; या

(vii) एमजीएनआरईजीएस कार्ड; या

(viii) किसान फोटो पासबुक; या

(ix) उस व्यक्ति की फोटो सहित पहचान प्रमाण पत्र जिसे राजपत्रित अधिकारी अथवा तहसीलदार द्वारा आधिकारिक पत्रशीर्ष पर जारी किया गया हो; या

(x) विभाग द्वारा विनिर्दिष्ट कोई अन्य दस्तावेज:

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परन्तु यह और भी कि उपर्युक्त दस्तावेज विभाग अपने कार्यान्वयन एजेंसी के माध्यम से उस प्रयोजन के लिए विशेष रूप से अभिहित किसी अधिकारी द्वारा जांचे जाएंगे।

2. स्कीम के अधीन फायदाग्राहियों को सुविधाजनक और निर्बाध फायदे प्रदान करने के लिए विभाग अपने कार्यान्वयन एजेंसी के माध्यम से निम्नलिखित सहित सभी आवश्यक व्यवस्थाएं करेगा, अर्थात्:

(1) स्कीम के अधीन आधार की आवश्यकता के बारे में फायदाग्राहियों को जागरूक करने के लिए मीडिया के माध्यम से व्यापक प्रचार किया जाएगा और व्यष्टिक सूचना दी जाएगी तथा यदि उन्होंने पहले से अपना नामांकन नहीं कराया है तो उन्हें 31 दिसंबर, 2017 तक अपने क्षेत्र में उपलब्ध निकटतम आधार नामांकन केन्द्र पर अपना नामांकन कराने की सलाह दी जा सकेगी और उन्हें स्थानीय रूप से उपलब्ध नामांकन केन्द्रों की सूची उपलब्ध कराई जाएगी।

(2) यदि आस-पास के क्षेत्रों जैसे ब्लाक या तालुका या तहसील में नामांकन केन्द्रों की अनुपलब्धता के कारण फायदाग्राही इस स्कीम के अधीन नामांकन न करा पाए हों तो विभाग अपना कार्यान्वयन एजेंसी के माध्यम से सुविधाजनक अवस्थानों पर आधार नामांकन सुविधाएं प्रदान करेगा और फायदाग्राही अपने नाम, पता, मोबाइल नं. और पैरा 1 के उप पैरा (3) के प्रथम परन्तुक में यथा विनिर्दिष्ट अन्य विवरण देकर आधार नामांकन के लिए अपने अनुरोध कार्यान्वयन एजेंसी के अभिहित पदधारियों के पास या इस प्रयोजन के लिए दिए गए वेबपोर्टल के माध्यम से रजिस्टर कराएंगे।

(3) यह अधिसूचना असम, मेघालय और जम्मू-कश्मीर राज्यों के सिवाय सभी राज्यों और संघ राज्य क्षेत्रों में उस तारीख से प्रभावी होगी जिस तारीख को यह राजपत्र में प्रकाशित होगी।

[फा. सं. 3/1012/2015 बागान (समन्वय)]

संतोष कुमार सारंगी, संयुक्त सचिव

(RUBBER BOARD)

NOTIFICATION

New Delhi, the 4th October, 2017

S.O. 3245(E).—Whereas, the use of Aadhaar as identity document for delivery of services or benefits or subsidies simplifies the Government delivery processes, brings in transparency and efficiency, and enables beneficiaries to get their entitlements directly in a convenient and seamless manner and Aadhaar obviates the need for producing multiple documents to prove one's identity;

And whereas, the Department of Commerce (hereinafter referred to as the Department) under the Ministry of Commerce and Industry in the Government of India is providing Grants-in-Aid to the Rubber Board under the Central Sector Scheme of "Sustainable and Inclusive Development of Natural Rubber Sector" (*hereinafter referred to as the Scheme*) with the key objective of overall development of the rubber industry across the country;

And whereas, the Department provides Grants-in-Aid to the Rubber Board (*hereinafter referred to as the Implementing Agency*) for implementing the Scheme, which, *inter-alia*, provides subsidies and scholarships (*hereinafter referred to as the benefits*) to the rubber growers, workers, children of the workers, individuals dealers and the individual exporters (*hereinafter together referred to as the beneficiaries*) under various sub-components of the Scheme as per the extant Scheme guidelines;

And whereas, the aforesaid Scheme involves expenditure incurred from the Consolidated Fund of India;

Now, therefore, in pursuance of the provisions of section 7 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016) (*hereinafter referred to as the said Act*), the Central Government notifies the following, namely.-

1. (1) An individual desirous of receiving the benefits under the Scheme is hereby required to furnish proof of possession of Aadhaar or undergo Aadhaar authentication.

(2) Any individual desirous of receiving the benefits under the Scheme who does not possess the Aadhaar number or, who has not yet enrolled for Aadhaar, shall be required to make an application for Aadhaar enrolment by 31st December, 2017, and in case, he or she is entitled to obtain Aadhaar as per the provisions of section 3 of the said Act, such individuals may visit any Aadhaar Enrolment Centre

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[list available at Unique Identification Authority of India (UIDAI) website www.uidai.gov.in] to get enrolled for Aadhaar.

(3) As per regulation 12 of Aadhaar (Enrolment and Update) Regulations, 2016, the Department through its Implementing Agency, is required to offer Aadhaar enrolment facilities for the beneficiaries who are not enrolled for Aadhaar, and in case there is no Aadhaar enrolment centre located in the respective Block or Taluka or Tehsil, the Department through its Implementing Agency shall provide Aadhaar enrolment facilities at convenient locations in coordination with the existing Registrars of UIDAI or by itself becoming UIDAI Registrar:

Provided that till the time Aadhaar is assigned to the individual, benefits under the Scheme shall be given to such individuals, subject to the production of the following documents, namely:-

(a) (i) If he or she has enrolled for Aadhaar, his or her Aadhaar Enrolment ID slip; or

(ii) A copy of the request made for Aadhaar enrolment, as specified in sub-paragraph (2) of paragraph 2; and

(b) any one of the following documents:-

(i) Voter Identity Card issued by the Election Commission of India, or

(ii) Driving licence issued by the Licencing Authority under the Motor Vehicles Act, 1988 (59 of 1988); or

(iii) Certificate of identity having photo of such individual issued by a Gazetted Officer or a Tehsildar on an Official Letter Head; or

(iv) Permanent Account Number (PAN) Card issued by the Income Tax Department; or

(v) Passport; or

(vi) Ration Card; or

(vii) Bank Passbook or Post Officer Passbook with photo, or

(viii) any other document specified by the Department:

Provided further that the above documents shall be checked by an officer specifically designated by Department through its Implementing Agency for that purpose.

2. In order to provide convenient and hassle free benefits to the beneficiaries under the scheme, the Department through its Implementing Agency shall make all the required arrangements including the following, namely:-

(1) wide publicity through media and individual notices shall be given to the beneficiaries to make them aware of the requirement of Aadhaar to receive the benefits under the Scheme and, in case they are not enrolled, they may be advised to get themselves enrolled at the nearest Aadhaar Enrolment Centre available in their areas by 31st December, 2017 and the list of locally available enrolment centres shall be made available to them.

(2) in case, the beneficiaries are not able to enrol due to non-availability of the enrolment centres in the vicinity such as in the Block or Taluka or Tehsil, the Department through its Implementing Agency shall provide Aadhaar enrolment facilities at convenient locations and beneficiaries may register their requests for enrolment by giving their names, addresses, mobile numbers and other details as specified in the first proviso to sub-paragraph (3) of paragraph 1, with the designated officials of the Implementing Agency or through the web portal provided for the purpose.

3. This notification shall come into effect from the date of its publication in the Official Gazette in all the States and Union territories except the States of Assam, Meghalaya and the State of Jammu and Kashmir.

[F. No. 3/1012/2015-Plan(Coord)]

SANTOSH KUMAR SARANGI, Jt. Secy.

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(कॉफी बोर्ड)

अधिसूचना

नई दिल्ली, 4 अक्तूबर, 2017

का.आ. 3246(अ).—सेवाओं या फायदों या सहायिकियों के परिदान के लिए एक पहचान दस्तावेज के रूप में आधार का उपयोग सरकारी परिदान प्रक्रियाओं का सरलीकरण करता है, पारदर्शिता और दक्षता लाता है और फायदाग्राहियों को सुविधापूर्वक और निर्बाध रीति में उनकी हकदारियों को सीधे प्राप्त करने में समर्थ बनाता है और आधार किसी व्यक्ति की पहचान को साबित करने के लिए बहुल दस्तावेज प्रस्तुत करने की आवश्यकता को समाप्त करता है;

और भारत सरकार में वाणिज्य और उद्योग मन्त्रालय के अधीन वाणिज्य विभाग (जिसे इसमें इसके पश्चात विभाग कहा गया है) देश भर में कॉफी उद्योग के सम्पूर्ण विकास के मुख्य उद्देश्य से 'एकीकृत कॉफी विकास परियोजना' (जिसे इसमें इसके पश्चात स्कीम कहा गया है) नामक केन्द्रीय स्कीम के अधीन कॉफी बोर्ड को सहायता अनुदान और सहायिकियां प्रदान करता है;

और, स्कीम के अधीन कॉफी बोर्ड (जिसे इसमें इसके पश्चात कार्यान्वयन एजेंसी कहा गया है) को दी जाने वाली सहायता अनुदान का उपयोग अन्य बातों के साथ-साथ मौजूदा स्कीम के मार्गदर्शन सिद्धांतों के अनुसार स्कीम के विभिन्न उप घटकों के अधीन कॉफी उपजकर्ताओं, कामगारों के बच्चों अथवा लघु कॉफी उपजकर्ताओं तथा व्यष्टिक निर्यातकों (जिसे इसमें इसके पश्चात फायदाग्राही कहा गया है) को सहायिकियों और छात्रवृत्ति (जिसे इसमें इसके पश्चात फायदा कहा गया है) प्रदान करता है;

और, पूर्वोक्त स्कीम में भारत की संचित निधि से उपगत व्यय अंतर्वलित है;

अतः, अब, केन्द्रीय सरकार आधार (वित्तीय और अन्य सहायिकियों, प्रसुविधाओं और सेवाओं की लक्षित परिदान) अधिनियम, 2016 (2016 का 18) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 7 के उपबंधों के अनुसरण में निम्नलिखित को अधिसूचित करती है; अर्थात् :—

1. (1) इस स्कीम के अधीन फायदा प्राप्त करने के इच्छुक व्यष्टि से यह अपेक्षा है कि वह आधार रखने का सबूत प्रस्तुत करे या आधार अधिप्रमाणन प्रक्रिया पूरी करे।

(2) स्कीम के अधीन फायदा प्राप्त करने का इच्छुक कोई भी व्यक्ति, जिसके पास आधार संख्या नहीं है अथवा जिसने आधार हेतु अभी तक नामांकन नहीं कराया है, उसे 31 दिसंबर, 2017 तक, आधार नामांकन कराने हेतु आवेदन करना होगा, और यदि, वह उक्त अधिनियम की धारा 3 के उपबंधों के अनुसार आधार प्राप्त करने हेतु हकदार है, तो ऐसे व्यक्ति अपना आधार नामांकन कराने के लिए किसी भी आधार नामांकन केन्द्र [भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) पर सूची उपलब्ध है, वेबसाइट www.uidai.gov.in] पर जा सकते हैं।

(3) आधार (नामांकन और अद्यतन) विनियम, 2016 के विनियम 12 के अनुसार विभाग अपनी कार्यान्वयन एजेंसी के माध्यम से ऐसे फायदाग्राहियों के लिए जिन्होंने अभी तक आधार के लिए नामांकन नहीं कराया है, आधार नामांकन कराने की सुविधाओं की प्रस्थापना करे और उस दशा में, जहां संबंधित ब्लाक या तालुका या तहसील में कोई आधार केन्द्र अवस्थित नहीं है, तो वहां विभाग अपनी कार्यान्वयन एजेंसी के माध्यम से यूआईडीएआई के विद्यमान रजिस्ट्रारों के समन्वय से या रजिस्ट्रार स्वयं यूआईडीएआई बनकर सुविधाजनक अवस्थानों पर सुविधाएं उपलब्ध कराएगा।

परन्तु ऐसे व्यष्टि को आधार समनुदेशित किए जाने तक स्कीम के अधीन निम्नलिखित दस्तावेज प्रस्तुत करने के अधीन रहते हुए फायदे दिए जाएंगे, अर्थात् :—

(क) (i) यदि उसने आधार के लिए नामांकन करा लिया है तो उसके आधार नामांकन की आई डी स्लिप; या

(ii) निम्नलिखित पैरा 2 के उप पैरा (2) में यथा विनिर्दिष्ट अनुसार आधार नामांकन के लिए किए गए अनुरोध की प्रति; और

(ख) (i) मतदाता पहचान पत्र, या

(ii) मोटर यान अधिनियम, 1988 (1988 का 59) के अधीन अनुज्ञापन प्राधिकारी द्वारा जारी चालन अनुज्ञप्ति; या

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(iii) उस व्यक्ति की फोटो सहित पहचान प्रमाण पत्र जिसे किसी राजपत्रित अधिकारी अथवा तहसीलदार द्वारा आधिकारिक पत्रशीर्ष पर जारी किया गया हो; या

(iv) आयकर विभाग द्वारा जारी स्थायी खाता संख्या (पैन) कार्ड ; या

(v) पासपोर्ट; या

(vi) राशनकार्ड; या

(vii) फोटो सहित बैंक पासबुक अथवा पोस्ट आफिस पासबुक ; या

(viii) विभाग द्वारा विनिर्दिष्ट कोई अन्य दस्तावेज; या

(ix) एमजीएनआरईजीएस कार्ड; या

(x) किसान फोटो पासबुक;

परन्तु यह और भी कि उपर्युक्त दस्तावेज विभाग अपने कार्यान्वयन एजेंसी के माध्यम से उस प्रयोजन के लिए विशेष रूप से अभिहित किसी अधिकारी द्वारा जांचे जाएंगे।

2. स्कीम के अधीन फायदाग्राहियों को सुविधाजनक और निर्बाध फायदे प्रदान करने के लिए विभाग अपने कार्यान्वियन एजेंसी के माध्यम से निम्नलिखित सहित सभी आवश्यक व्यवस्थाएँ करेगा, अर्थात्:

(1) स्कीम के अधीन आधार की आवश्यकता के बारे में फायदाग्राहियों को जागरूक करने के लिए मीडिया के माध्यम से व्यापक प्रचार किया जाएगा और व्यष्टिक सूचना दी जाएगी तथा यदि उन्होंने पहले से अपना नामांकन नहीं कराया है तो उन्हें 31 दिसंबर, 2017 तक अपने क्षेत्र में उपलब्ध निकटतम आधार नामांकन केन्द्र पर अपना नामांकन कराने की सलाह दी जा सकेगी और उन्हें स्थानीय रूप से उपलब्ध नामांकन केन्द्रों की सूची उपलब्ध कराई जाएगी।

(2) यदि आस-पास के क्षेत्रों जैसे ब्लाक या तालुका या तहसील में नामांकन केन्द्रों की अनुपलब्धता के कारण फायदाग्राही इस स्कीम के अधीन नामांकन न करा पाए हों तो विभाग अपना कार्यान्वियन एजेंसी के माध्यम से सुविधाजनक अवस्थानों पर आधार नामांकन सुविधाएं प्रदान करेगा और फायदाग्राही अपने नाम, पता, मोबाइल नं. और पैरा 1 के उप पैरा (3) के प्रथम परन्तुक में यथा विनिर्दिष्ट अन्य विवरण देकर आधार नामांकन के लिए अपने अनुरोध कार्यान्वियन एजेंसी के अभिहित पदधारियों के पास या इस प्रयोजन के लिए दिए गए वेबपोर्टल के माध्यम से रजिस्टर कराएंगे।

(3) यह अधिसूचना असम, मेघालय और जम्मू-कश्मीर राज्यों के सिवाय सभी राज्यों और संघ राज्य क्षेत्रों में उस तारीख से प्रभावी होगी जिस तारीख को यह राजपत्र में प्रकाशित होगी।

[फा. सं. 3/1012/2015 बागान (समन्वय)]

संतोष कुमार सारंगी, संयुक्त सचिव

(COFFEE BOARD)

NOTIFICATION

New Delhi, the 4th October, 2017

S.O. 3246(E).—Whereas, the use of Aadhaar as identity document for delivery of services or benefits or subsidies simplifies the Government delivery processes, brings in transparency and efficiency, and enables beneficiaries to get their entitlements directly in a convenient and seamless manner and Aadhaar obviates the need for producing multiple documents to prove one's identity;

And whereas, the Department of Commerce (*hereinafter referred to as the Department*) under the Ministry of Commerce and Industry in the Government of India is providing Grants-in-Aid and subsidies to the Coffee Board under the Central Sector Scheme of "Integrated Coffee Development Project" (*hereinafter referred to as the Scheme*) with the key objective of overall development of the coffee industry across the country;

And whereas, the Grants-in-Aid given to the Coffee Board (*hereinafter referred to as the Implementing Agency*) under the Scheme, *inter-alia*, is used for giving subsidies and scholarships (*hereinafter referred to as the benefits*) to the coffee growers, children of the workers or tiny coffee growers and the individual exporters (*hereinafter together referred to as the beneficiaries*) under various

sub-components of the Scheme as per the extant Scheme guidelines;

And whereas, the aforesaid Scheme involves expenditure incurred from the Consolidated Fund of India;

Now, therefore, in pursuance of the provisions of section 7 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016) (*hereinafter referred to as the said Act*), the Central Government notifies the following, namely:-

1. (1) An individual desirous of receiving the benefits under the Scheme is hereby required to furnish proof of possession of Aadhaar or undergo Aadhaar authentication

(2) Any individual desirous of receiving the benefits under the Scheme who does not possess the Aadhaar number or, who has not yet enrolled for Aadhaar, shall be required to make an application for Aadhaar enrolment by 31st December, 2017, and in case, he or she is entitled to obtain Aadhaar as per the provisions of section 3 of the said Act, such individuals may visit any Aadhaar Enrolment Centre [list available at Unique Identification Authority of India (UIDAI) www.uidai.gov.in] to get enrolled for Aadhaar.

(3) As per regulation 12 of Aadhaar (Enrolment and Update) Regulations, 2016, the Department through its Implementing Agency, is required to offer Aadhaar enrolment facilities for the beneficiaries who are not enrolled for Aadhaar, and in case there is no Aadhaar enrolment centre located in the respective Block or Taluka or Tehsil, the Department through its Implementing Agency shall provide Aadhaar enrolment facilities at convenient locations in coordination with the existing Registrars of UIDAI or by itself becoming UIDAI Registrar:

Provided that till the time Aadhaar is assigned to the individual, benefits under the Scheme shall be given to such individuals, subject to the production of the following documents, namely:-

(b) (i) If he or she has enrolled for Aadhaar, his or her Aadhaar Enrolment ID slip, or

(ii) A copy of the request made for Aadhaar enrolment, as specified in sub-paragraph (2) of paragraph 2; and

(b) any one of the following documents:-

(i) Voter Identity Card issued by the Election Commission of India; or

(ii) Driving licence issued by the Licencing Authority under the Motor Vehicles Act, 1988 (59 of 1988); or

(iii) Certificate of identity having photo of such individual issued by a Gazetted Officer or a Tehsildar on an Official Letter Head; or

(iv) Permanent Account Number (PAN) Card issued by the Income Tax Department; or

(v) Passport; or

(vi) Ration Card; or

(vii) Bank Passbook or Post Officer Passbook with photo; or

(viii) any other document specified by the Department:

Provided further that the above documents shall be checked by an officer specifically designated by Department through its Implementing Agency for that purpose.

2. In order to provide convenient and hassle free benefits to the beneficiaries under the scheme, the Department through its Implementing Agency shall make all the required arrangements including the following, namely:—

(1) wide publicity through media and individual notices shall be given to the beneficiaries to make them aware of the requirement of Aadhaar to receive the benefits under the Scheme and, in case they are not enrolled, they may be advised to get themselves enrolled at the nearest Aadhaar Enrolment Centre available in their areas by 31st December, 2017 and the list of locally available enrolment centres shall be made available to them.

(2) in case, the beneficiaries are not able to enrol due to non-availability of the enrolment centres within their vicinity such as in the Block or Taluka or Tehsil, the Department through its Implementing Agency shall provide Aadhaar enrolment facilities at convenient locations and beneficiaries may register their requests for enrolment by giving their names, addresses, mobile numbers and other details as specified in the first proviso to sub-paragraph (3) of paragraph 1, with the designated officials of the Implementing Agency or through the web portal provided for the purpose.

3 This notification shall come into effect from the date of its publication in the Official Gazette in all the States and Union territories except the States of Assam, Meghalaya and the State of Jammu and Kashmir.

[F. No 3/1012/2015-Plant(Coord)]

SANTOSH KUMAR SARANGI, Jt. Secy.

(चाय बोर्ड)

अधिसूचना

नई दिल्ली, 4 अक्तूबर, 2017

का.आ. 3247(अ).—सेवाओं या फायदों या सहायिकियों के परिदान के लिए एक पहचान दस्तावेज के रूप में आधार का उपयोग सरकारी परिदान प्रक्रियाओं का सरलीकरण करता है, पारदर्शिता और दक्षता लाता है और फायदाग्राहियों को सुविधापूर्वक और निर्बाध रीति में उनकी हकदारियों को सीधे प्राप्त करने में समर्थ बनाता है और आधार किसी व्यक्ति की पहचान को साबित करने के लिए बहुल दस्तावेज प्रस्तुत करने की आवश्यकता को समाप्त करता है;

और भारत सरकार में वाणिज्य और उद्योग मंत्रालय के अधीन वाणिज्य विभाग (जिसे इसमें इसके पश्चात विभाग कहा गया है) इस स्कीम के कार्यान्वयन हेतु चाय बोर्ड (जिसे इसमें इसके पश्चात कार्यान्वयन एजेंसी कहा गया है) को सहायता अनुदान प्रदान करके "चाय विकास और संवर्धन स्कीम" (जिसे इसमें इसके पश्चात स्कीम कहा गया है) की केन्द्रीय स्कीम को प्रशासित कर रहा है। स्कीम निम्नलिखित उप घटक से मिलकर बना है :—

(i) चाय बागान विकास;

(ii) आर्थोडॉक्स चाय उत्पादन हेतु प्रोत्साहन सहित गुणवत्ता उन्नयन और उत्पाद विविधीकरण

(iii) बाजार संवर्धन - घरेलू और अंतर्राष्ट्रीय;

(iv) अनुसंधान और विकास;

(v) मानव संसाधन विकास; और

(vi) राष्ट्रीय चाय विनियमन कार्यक्रम;

और, वर्तमान स्कीम मार्गदर्शक सिद्धांतों के अनुसार स्कीम के विभिन्न उपघटकों के अधीन उपर्युक्त स्कीम चाय उपजकर्ताओं, श्रमिकों, श्रमिकों के बच्चों और व्यष्टिक निर्यातकों (जिन्हें इसमें इसके पश्चात फायदाग्राही कहा गया है) को सहायिकी और सहायता अनुदान प्रदान (जिसे इसमें इसके पश्चात सामूहिक रूप से फायदा कहा गया है) करती है;

और, पूर्वोक्त स्कीम में भारत की संचित निधि से उपगत व्यय अंतर्वलित है;

अतः, अब, केन्द्रीय सरकार आधार (वित्तीय और अन्य सहायिकियों, प्रसुविधाओं और सेवाओं की लक्षित परिदान) अधिनियम, 2016 (2016 का 18) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा जाएगा) की धारा 7 के उपबंधों के अनुसरण में, निम्नलिखित अधिसूचित करती है; अर्थात :-

1. (1) इस स्कीम के अधीन फायदा प्राप्त करने के लिए पात्र व्यष्टि से यह अपेक्षा है कि वह आधार संख्या रखने का सबूत प्रस्तुत करे या आधार अधिप्रमाणन प्रक्रिया पूरी करे।

(2) स्कीम के अधीन फायदा प्राप्त करने का इच्छुक कोई भी व्यक्ति, जिसके पास आधार संख्या नहीं है अथवा जिसने आधार हेतु अभी तक नामांकन नहीं कराया है, उसे 31 दिसंबर, 2017 तक, आधार नामांकन कराने हेतु आवेदन करना होगा, और यदि, वह उक्त अधिनियम की धारा 3 के उपबंधों के अनुसार आधार प्राप्त करने हेतु

हकदार है, तो ऐसे व्यक्ति अपना आधार नामांकन कराने के लिए किसी भी आधार नामांकन केन्द्र [भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) पर सूची उपलब्ध है, वेबसाइट www.uidai.gov.in] पर जा सकते हैं।

(3) आधार (नामांकन और अद्यतन) विनियम, 2016 के विनियम 12 के अनुसार विभाग अपनी कार्यान्वयन एजेंसी के माध्यम से ऐसे फायदाग्राहियों के लिए जिन्होंने अभी तक आधार के लिए नामांकन नहीं कराया है, आधार नामांकन कराने की सुविधाओं की प्रस्थापना करे और उस दशा में, जहां संबंधित ब्लाक या तालुका या तहसील में कोई आधार केन्द्र अवस्थित नहीं है, तो वहां विभाग अपना कार्यान्वयन एजेंसी के माध्यम से यूआईडीएआई के विद्यमान रजिस्ट्रारों के समन्वय से या रजिस्ट्रार स्वयं यूआईडीएआई बनकर सुविधाजनक अवस्थानों पर सुविधाएं उपलब्ध कराएगा।

परन्तु ऐसे व्यष्टि को आधार समनुदेशित किए जाने तक स्कीम के अधीन निम्नलिखित दस्तावेज प्रस्तुत करने के अधीन रहते हुए फायदे दिए जाएंगे, अर्थात्:

(क) (i) यदि उसने आधार के लिए नामांकन करा लिया है तो उसके आधार नामांकन की आई डी स्लिप; या

(ii) निम्नलिखित पैरा 2 के उप पैरा (2) में यथा विनिर्दिष्ट अनुसार आधार नामांकन के लिए किए गए अनुरोध की प्रति; और

(ख) (i) फोटो सहित बैंक पासबुक अथवा पोस्ट आफिस पासबुक ; या

(ii) मतदाता पहचान पत्र, या

(iii) स्थायी खाता संख्या (पैन) कार्ड; या

(iv) पासपोर्ट; या

(v) मोटर यान अधिनियम, 1988 (1988 का 59) के अधीन जारी अनुज्ञापन प्राधिकारी द्वारा जारी चालन अनुज्ञप्ति; या

(vi) राशनकार्ड; या

(vii) एमजीएनआरईजीएस कार्ड; या

(viii) किसान फोटो पासबुक; या

(ix) उस व्यक्ति की फोटो सहित पहचान पत्र जिसे राजपत्रित अधिकारी अथवा तहसीलदार द्वारा आधिकारिक पत्रशीर्ष पर जारी किया गया हो; या

(x) विभाग द्वारा विनिर्दिष्ट कोई अन्य दस्तावेज:

परन्तु यह और भी कि उपर्युक्त दस्तावेज विभाग अपने कार्यान्वयन एजेंसी के माध्यम से उस प्रयोजन के लिए विशेष रूप से अभिहित किसी अधिकारी द्वारा जांचे जाएंगे।

2. स्कीम के अधीन फायदाग्राहियों को सुविधाजनक और निर्बाध फायदे प्रदान करने के लिए विभाग अपने कार्यान्वयन एजेंसी के माध्यम से निम्नलिखित सहित सभी आवश्यक व्यवस्थाएं करेगा, अर्थात्:

(1) स्कीम के अधीन आधार की आवश्यकता के बारे में फायदाग्राहियों को जागरूक करने के लिए मीडिया के माध्यम से व्यापक प्रचार किया जाएगा और व्यष्टिक सूचना दी जाएगी तथा यदि उन्होंने पहले से अपना नामांकन नहीं कराया है तो उन्हें 31 दिसंबर, 2017 तक अपने क्षेत्र में उपलब्ध निकटतम आधार नामांकन केन्द्र पर अपना नामांकन कराने की सलाह दी जा सकेगी और उन्हें स्थानीय रूप से उपलब्ध नामांकन केन्द्रों की सूची उपलब्ध कराई जाएगी।

(2) यदि आस-पास के क्षेत्रों जैसे ब्लाक या तालुका या तहसील में नामांकन केन्द्रों की अनुपलब्धता के कारण फायदाग्राही इस स्कीम के अधीन नामांकन न करा पाए हों तो विभाग अपना कार्यान्वयन एजेंसी के माध्यम से सुविधाजनक अवस्थानों पर आधार नामांकन सुविधाएं प्रदान करेगा और फायदाग्राही अपने नाम, पता, मोबाइल नं. और पैरा 1 के उप पैरा (3) के प्रथम परन्तुक में यथा विनिर्दिष्ट अन्य विवरण देकर आधार नामांकन के लिए अपने अनुरोध कार्यान्वयन एजेंसी के अभिहित पदधारियों के पास या इस प्रयोजन के लिए दिए गए वेबपोर्टल के माध्यम से रजिस्टर कराएंगे।

(3) यह अधिसूचना असम, मेघालय और जम्मू-कश्मीर राज्यो के सिवाय सभी राज्यों और सघ राज्य क्षेत्रों मे उस तारीख से प्रभावी होगी जिस तारीख को यह राजपत्र में प्रकाशित होगी ।

[फा. सं. 3/1012/2015 बागान (समन्वय)]

संतोष कुमार सारंगी, संयुक्त सचिव

(TEA BOARD)

NOTIFICATION

New Delhi, the 4th October, 2017

S.O. 3247(E).—Whereas, the use of Aadhaar as identity document for delivery of services or benefits or subsidies simplifies the Government delivery processes, brings in transparency and efficiency, and enables beneficiaries to get their entitlements directly in a convenient and seamless manner and Aadhaar obviates the need for producing multiple documents to prove one's identity;

And whereas, the Department of Commerce (*hereinafter referred to as the Department)* under the Ministry of Commerce and Industry in the Government of India is administering the Central Sector Scheme of "Tea Development and Promotion Scheme" (*hereinafter referred to as the Scheme*) by providing Grant-in-Aids to the Tea Board (*hereinafter referred to as the Implementing Agency*) for implementation of the Scheme. The Scheme consists of the following sub-components:

(i) Tea Plantation Development;

(ii) Quality Up-gradation and Product Diversification including incentive for Orthodox tea production;

(iii) Market Promotion – Domestic and International;

(iv) Research and Development;

(v) Human Resource Development; and

(vi) National Programme for Tea Regulation;

And whereas, the aforesaid Scheme provides subsidy and Grant-in-Aid (*hereinafter collectively referred to as the benefits)* to the tea growers, labourers, children of labourers and the individual exporters (*hereinafter collectively referred to as the beneficiaries*) under various sub-components of the Scheme as per the extant Scheme guidelines;

And whereas, the aforesaid Scheme involves expenditures incurred from the Consolidated Fund of India;

Now, therefore, in pursuance of the provisions of section 7 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016) (*hereinafter referred to as the said Act*), the Central Government hereby notifies the following, namely:—

1. (1) An individual eligible for receiving the benefits under the Scheme shall be required to furnish proof of possession of Aadhaar number or undergo Aadhaar authentication.

(2) Any Individual desirous of availing the benefits under the Scheme, who does not possess the Aadhaar number or, has not yet enrolled for Aadhaar, shall have to apply for Aadhaar enrolment by 31st December, 2017, and in case, he or she is entitled to obtain Aadhaar as per the provisions of section 3 of the said Act, such persons may visit any Aadhaar enrolment centre [list available at Unique Identification Authority of India (UIDAI) website www.uidai.gov.in] to get enrolled for Aadhaar.

(3) As per regulation 12 of Aadhaar (Enrolment and Update) Regulations, 2016, the Department through its Implementing Agency, is required to offer Aadhaar enrolment facilities for the beneficiaries who are not yet enrolled for Aadhaar, and in case there is no Aadhaar enrolment centre located in the respective Block or Taluka or Tehsil, the Department through its Implementing Agency shall provide Aadhaar enrolment facilities at convenient locations in coordination with the existing Registrars of UIDAI or by itself becoming UIDAI Registrar;

Provided that till the time Aadhaar is assigned to the individual, benefits under the Scheme shall be given to such individuals, subject to the production of the following documents, namely:–

(c) (i) if he or she or has enrolled, his or her Aadhaar Enrolment ID slip; or

(iii) a copy of his or her request made for Aadhaar enrolment, as specified in sub-paragraph (2) of paragraph 2; and

(d) (i) Bank Passbook or Post office Passbook with photo; or (ii) Voter ID Card; or (iii) Permanent Account Number (PAN) Card; or (iv) Passport; or (v) Driving licence issued by Licencing Authority under the Motor Vehicles Act, 1988 (59 of 1988); or (vi) Ration Card; or (vii) MGNREGS Card; or (viii) Kisan Photo Passbook; or (ix) Certificate of identity having photo of such person issued by a Gazetted Officer or a Tehsildar on an official letter head; or (x) any other document as specified by the Department:

Provided further that the above documents shall be checked by an officer specifically designated by the Department through its implementing agency for that purpose.

2. In order to provide convenient and hassle free benefits to the beneficiaries under the Scheme, the Department through its Implementing Agency, shall make all the required arrangements including the following, namely:-

(1) wide publicity through media and individual notices shall be given to the beneficiaries to make them aware of the requirement of Aadhaar under the Schemes and they may be advised to get themselves enrolled at the nearest Aadhaar enrolment centres available in their areas by 31st December, 2017, in case they are not already enrolled and the list of locally available enrolment centres shall be made available to them.

(2) in case, the beneficiaries are not able to enroll for Aadhaar due to non-availability of enrolment centres in the vicinity such as in the Block or Taluka or Tehsil, the Department through its Implementing Agency shall provide Aadhaar enrolment facilities at convenient locations, and the beneficiaries may register their requests for Aadhaar enrolment by giving their names, addresses, mobile numbers and other details as specified in the first proviso to sub-paragraph (3) of paragraph 1, with the designated officials of the Implementing Agency or through the web portal provided for the purpose.

3. This notification shall come into effect from the date of its publication in the Official Gazette in all the States and Union territories except the States of Assam, Meghalaya and the State of Jammu and Kashmir.

[F. No. 3/1012/2015-Plant (coord)]

SANTOSH KUMAR SARANGI, Jt. Secy

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वस्त्र मंत्रालय

अधिसूचना

नई दिल्ली, 5 अक्तूबर, 2017

का.आ.3296 (अ).— सेवाओं या प्रसुविधाओं या सहायिकीयों के परिदान के लिए एक पहचान दस्तावेज के रूप में आधार का उपयोग सरकारी परिदान प्रक्रियाओं का सरलीकरण करता है, पारदर्शिता और दक्षता लाता है और फायदाग्राहियों को सुविधाजनक और निर्बाध रीति में उनकी हकदारियों को सीधे प्राप्त करने में समर्थ बनाता है और आधार किसी व्यक्ति की पहचान को साबित करने के लिए विभिन्न दस्तावेज प्रस्तुत करने की आवश्यकता को समाप्त करता है;

और, भारत सरकार का वस्त्र मंत्रालय (जिसे इसमें इसके पश्चात मंत्रालय कहा गया है), वस्त्र आयुक्त के कार्यालय के साथ-साथ सिंथैटिक एंड आर्ट सिल्क मिल्स रिसर्च एसोसिएशन (जिसे इसमें इसके पश्चात क्रियान्वयन अभिकरण कहा गया है), जिसे वस्त्र क्षेत्र के विकास के लिए नियुक्त किया गया है, के माध्यम से देश के पूर्वोत्तर क्षेत्र (एनईआर) में एग्रो-टेक्सटाइल्स उत्पादों के प्रयोग के प्रति जागरूकता का सृजन करने और बढ़ावा देने के प्रयोजनार्थ केंद्रीय क्षेत्र की स्कीम नामत: पूर्वोत्तर क्षेत्र में एग्रो-टेक्सटाइल्स के प्रयोग को बढ़ावा देने की स्कीम (जिसे इसमें इसके पश्चात स्कीम कहा गया है) चला रही है,

और मंत्रालय, क्रियान्वयन अभिकरणों के माध्यम से एग्रो-टेक्सटाइल किसानों (जिन्हें इसमें इसके पश्चात फायदाग्राही कहा गया है) को सहायकी का केंद्रीय अंश जारी करने के साथ-साथ पहले से तैयार एग्रो-टेक्सटाइल किट (जिसे इसमें इसके पश्चात प्रसुविधा कहा गया है) प्रदान करता है;

और पूर्वोक्त स्कीम में भारत की संचित निधि से किया गया उपगत व्यय अंतर्निहित है;

अत: अब केंद्रीय सरकार, आधार (वित्तीय और अन्य सहायिकियों, प्रसुविधाओं और सेवाओं का लक्ष्यित परिदान) अधिनियम, 2016 (2016 का 18) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 7 के उपबंधों के अनुसरण में निम्नलिखित को अधिसूचित करती है, अर्थात्:

1. (1) इस स्कीम के अधीन प्रसुविधाओं का उपयोग करने के लिए इच्छुक व्यक्ति को आधार संख्यांक होने का प्रमाण प्रस्तुत करना अपेक्षित होगा या आधार अधिप्रमाणन प्रक्रिया पूरी करने की अपेक्षा होगी।

(2) जिस व्यक्ति के पास आधार संख्या नहीं है अथवा जिसने अभी तक आधार के लिए नामांकन नहीं कराया है, उसे 31 दिसम्बर, 2017 तक आधार नामांकन के लिए आवेदन करना होगा यदि वह उक्त अधिनियम की धारा 3 के उपबंधों के अनुसार आधार अभिप्राप्त करने का पात्र हो और ऐसे व्यक्ति आधार के नामांकन के लिए किसी भी आधार नामांकन केंद्र (सूची भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) की वेबसाइट www.uidai.gov.in पर उपलब्ध है) पर जा सकेंगे।

(3) आधार (नामांकन और अद्यतन) विनियम, 2016 के विनियम 12 के अनुसार मंत्रालय के लिए अपने क्रियान्वयन अभिकरण के माध्यम से ऐसे फायदाग्राहियों के लिए जिन्होंने आधार के लिए अभी तक नामांकन नहीं किया है, आधार नामांकन सुविधाएं प्रदान करना अपेक्षित है और यदि संबंधित ब्लॉक या तालुका या तहसील में कोई आधार नामांकन केंद्र नहीं है तो मंत्रालय स्वयं अपने क्रियान्वयन अभिकरण के माध्यम से भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) के मौजूदा रजिस्ट्रारों के समन्वय से या स्वयं मंत्रालय यूआईडीएआई रजिस्ट्रार बनकर सुविधाजनक स्थानों पर आधार नामांकन सुविधा प्रदान करेगा :

परंतु व्यक्ति को आधार दिए जाने तक ऐसे व्यक्तियों को स्कीम के अधीन फायदे निम्नलिखित दस्तावेज प्रस्तुत किए जाने के अधीन रहते हुए दिए जाएंगे; अर्थात्:

(क) (i) यदि उसने नामांकन करा लिया है तो उनका/उनकी आधार नामांकन स्लिप; या

(ii) पैरा 2 के उप-पैरा (2) में यथानिर्दिष्ट आधार नामांकन के लिए किए गए उसके आवेदन की एक प्रति; और

(ख) (i) फोटाग्राफ के साथ बैंक पासबुक; या (ii) भारत निर्वाचन आयोग द्वारा जारी मतदाता पहचान पत्र; या (iii) राशन कार्ड; या (iv) आयकर विभाग द्वारा जारी स्थायी खाता संख्या (पैन) कार्ड; या (v) पासपोर्ट; या (vi) महात्मा गांधी राष्ट्रीय रोजगार गारंटी योजना जॉब कार्ड; या (vii) किसान फोटो पासबुक; या (viii) मोटर यान अधिनियम, 1988 के अधीन अनुज्ञापन प्राधिकारी द्वारा जारी चालन अनुज्ञप्ति; या (ix) सरकारी पत्र शीर्ष पर राजपत्रित अधिकारी द्वारा जारी ऐसे व्यक्ति का फोटो पहचान प्रमाणपत्र; अथवा (x) मंत्रालय द्वारा यथा विनिर्दिष्ट कोई अन्य दस्तावेज :

परंतु यह और कि उपर्युक्त दस्तावेजों की जांच इस प्रयोजन के लिए मंत्रालय द्वारा विशिष्ट रूप से अभिहित अधिकारी द्वारा की जाएगी।

2. इस स्कीम के अधीन लाभार्थियों को सुविधाजनक और निर्बाध तरीके से प्रसुविधाएं प्रदान करने के लिए मंत्रालय अपने क्रियान्वयन अभिकरण के माध्यम से निम्नलिखित सहित सभी अपेक्षित व्यवस्थाएं करेगा, अर्थात्;

(1) इस स्कीम के अधीन आधार की आवश्यकता के बारे में फायदाग्राहियों को जागरूक बनाने के लिए मीडिया और व्यक्तिगत सूचनाओं के माध्यम से व्यापक प्रचार किया जाएगा और यदि वे पहले से नामांकित नहीं हैं तो उन्हें तारीख 31 दिसम्बर, 2017 तक उनके क्षेत्र में उपलब्ध निकटतम आधार नामांकन केंद्रों पर स्वयं को नामांकन कराने की सलाह दी जा सकेगी। उन्हें स्थानीय तौर पर उपलब्ध नामांकन केंद्रों की सूची उपलब्ध कराई जाएगी (सूची www.uidai.gov.in पर उपलब्ध है)।

(2) यदि इस स्कीम के अधीन फायदाग्राही, ब्लॉक या तालुका या तहसील जैसे आसपास के क्षेत्रों में नामांकन केंद्र उपलब्ध न होने के कारण आधार के लिए नामांकन कराने में असमर्थ हैं तो मंत्रालय अपने क्रियान्वयन अभिकरणों के माध्यम से सुविधाजनक स्थानों पर आधार नामांकन सुविधाएं उपलब्ध कराएगा और फायदाग्राहियों से कार्यान्वयन अभिकरण अथवा इस प्रयोजनार्थ उपलब्ध कराए गए वेब-पोर्टल के माध्यम से अभिहित अधिकारी को पैरा 1 के उप-पैरा (3) के प्रथम परंतुक में यथाविनिर्दिष्ट अपने नाम, पते, मोबाइल नं. और अन्य ब्यौरे प्रदान करके आधार नामांकन के लिए अपने अनुरोध को रजिस्ट्रीकृत कराने का अनुरोध किया जा सकेगा।

3. यह अधिसूचना असम और मेघालय राज्यों को छोड़कर पूर्वोत्तर क्षेत्र के सभी राज्यों में राजपत्र में इसके प्रकाशन की तारीख से प्रभावी होगी।

[फा सं.6/21/2017-टीडी]

पुनीत अग्रवाल, संयुक्त सचिव

MINISTRY OF TEXTILES

NOTIFICATION

New Delhi the 5th October, 2017

S.O. 3296(E).—Whereas, the use of Aadhaar as identity for delivery of services or benefits or subsidies simplifies the Government delivery processes, brings in transparency and efficiency and enables beneficiaries to get their entitlements directly to them in a convenient and hassle free manner and Aadhaar obviates the need for producing multiple documents to prove one's identity;

And whereas, the Ministry of Textiles *(hereinafter referred to as the Ministry)* in the Government of India is administering the Central Sector Scheme namely, "Scheme for Promoting Usage of Agrotextiles in North East Region" *(hereinafter referred to as the Scheme)*, for the purpose of creating awareness and promoting usage of Agrotextile products in the North East Region (NER) of the country through the Office of Textile Commissioner as well as Synthetic and Art Silk Mills' Research Association (SASMIRA), *(hereinafter referred to as the Implementing Agencies)* who is engaged in the development of textile sector;

And whereas, the Ministry through the Implementing Agencies, releases central share of subsidy as well as provides ready-made agrotextile kits *(hereinafter referred to as the benefits)*, to the Agrotextile farmers *(hereinafter referred to as the beneficiaries)*;

And whereas, the aforesaid Scheme involves recurring expenditure incurred from the Consolidated Fund of India;

Now, therefore, in pursuance of the provisions of section 7 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016) *(hereinafter referred to as the said Act)*, the Central Government, hereby notifies the following, namely:—

1. (1) Any individual desirous of availing the benefits under the Scheme is required to furnish the proof of possession of Aadhaar number or undergo Aadhaar authentication.

(2) Any individual who does not possess the Aadhaar number or has not yet enrolled for Aadhaar, shall have to apply for Aadhaar enrolment by 31st December, 2017 in case he or she is entitled to obtain Aadhaar as per the provisions of section 3 of the said Act and such individual may visit any Aadhaar Enrolment Centre (list available at Unique Identification Authority of India website www.uidai.gov.in) for Aadhaar enrolment.

(3) As per regulation 12 of the Aadhaar (Enrolment and Update) Regulations, 2016, the Ministry through its Implementing Agencies, is required to offer Aadhaar enrolment facilities for the beneficiaries who are not yet enrolled for Aadhaar, and in case there is no Aadhaar enrolment centre located in the vicinity such as in the Block or Taluka or Tehsil, the Ministry through its Implementing Agencies shall provide Aadhaar enrolment facilities at convenient locations in coordination with the existing Registrars of Unique Identification Authority of India (UIDAI) or by the Ministry itself becoming UIDAI Registrar :

Provided that till the time Aadhaar is assigned to the individuals, benefits shall be given to such individuals under the Scheme, subject to the production of the following documents, namely:-

(a) (i) if he or she has enrolled, his or her Aadhaar Enrolment ID slip, or

(ii) a copy of his or her request made for Aadhaar enrolment, as specified in sub-paragraph (2) of paragraph 1; and

(b) (i) Bank Passbook with photograph; or (ii) Voter Identity Card issued by the Election Commission of India; or (iii) Ration Card; or (iv) Permanent Account Number (PAN) Card issued by the Income Tax Department; or (v) Passport; or (vi) Mahatma Gandhi National Rural Employment Guarantee Scheme Job Card; or (vii) Kisan Photo Passbook; or (viii) Driving Licence issued by the Licencing Authority under the Motor Vehicles Act,1988; or (ix) Certificate of identity having photo of such person issued by a Gazetted Officer on an official letter head; or (x) any other documents as specified by the Ministry:

Provided further that the above documents shall be checked by an officer specially designated by the Ministry through its Implementing Agencies for that purpose.

2. In order to provide convenient and hassle free benefits to the beneficiaries under the Scheme, the Ministry through its Implementing Agencies shall make all the required arrangements including the following, namely:-

(1) Wide publicity through media and individual notices shall be given to the beneficiaries to make them aware of the requirement of Aadhaar under the Scheme and they may be advised to get themselves enrolled at the nearest Aadhaar enrolment centres available in their areas by 31st December, 2017, in case they are not already enrolled. The list of locally available enrolment centres (list available at www.uidai.gov.in) shall be made available to them.

(2) In case, the beneficiaries under the Scheme are not able to enroll for Aadhaar due to non-availability of enrolment centres in the vicinity such as in the Block or Talukas or Tehsil, the Ministry through its Implementing Agencies shall provide Aadhaar enrolment facilities at convenient locations, and the beneficiaries may register their requests for Aadhaar enrolment by giving their names, addresses, mobile numbers and other details as specified in the first proviso to sub-paragraph (3) of paragraph 1, with the designated officer of the Implementing Agencies or through the web portal provided for the purpose.

3. This notification shall come into effect from the date of its publication in the Official Gazette in all the North-Eastern States except the States of Assam, and Meghalaya.

[F No. 6/21/2017-TT]

PUNEET AGARWAL, Jt. Secy.

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अधिसूचना

नई दिल्ली, 5 अक्तूबर, 2017

का.आ.3296 (अ).— सेवाओं या प्रसुविधाओं या सहायिकीयों के परिदान के लिए एक पहचान दस्तावेज के रूप में आधार का उपयोग सरकारी परिदान प्रक्रियाओं का सरलीकरण करता है, पारदर्शिता और दक्षता लाता है और फायदाग्राहियों को सुविधाजनक और निर्बाध रीति में उनकी हकदारियों को सीधे प्राप्त करने में समर्थ बनाता है और आधार किसी व्यक्ति की पहचान को साबित करने के लिए विभिन्न दस्तावेज प्रस्तुत करने की आवश्यकता को समाप्त करता है;

और, भारत सरकार का वस्त्र मंत्रालय (जिसे इसमें इसके पश्चात मंत्रालय कहा गया है), वस्त्र आयुक्त के कार्यालय के साथ-साथ सिंथैटिक एंड आर्ट सिल्क मिल्स रिसर्च एसोसिएशन (जिसे इसमें इसके पश्चात क्रियान्वयन अभिकरण कहा गया है), जिसे वस्त्र क्षेत्र के विकास के लिए नियुक्त किया गया है, के माध्यम से देश के पूर्वोत्तर क्षेत्र (एनईआर) में एग्रो-टेक्सटाइल्स उत्पादों के प्रयोग के प्रति जागरूकता का सृजन करने और बढ़ावा देने के प्रयोजनार्थ केंद्रीय क्षेत्र की स्कीम नामत: पूर्वोत्तर क्षेत्र में एग्रो-टेक्सटाइल्स के प्रयोग को बढ़ावा देने की स्कीम (जिसे इसमें इसके पश्चात स्कीम कहा गया है) चला रही है;

और मंत्रालय, क्रियान्वयन अभिकरणों के माध्यम से एग्रो-टेक्सटाइल किसानों (जिन्हें इसमें इसके पश्चात फायदाग्राही कहा गया है) को सहायिकी का केंद्रीय अंश जारी करने के साथ-साथ पहले से तैयार एग्रो-टेक्सटाइल किट (जिसे इसमें इसके पश्चात प्रसुविधा कहा गया है) प्रदान करता है;

और पूर्वोक्त स्कीम में भारत की संचित निधि से किया गया उपगत व्यय अंतर्निहित है;

अत: अब केंद्रीय सरकार, आधार (वित्तीय और अन्य सहायिकियों, प्रसुविधाओं और सेवाओं का लक्षित परिदान) अधिनियम, 2016 (2016 का 18) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 7 के उपबंधों के अनुसरण में निम्नलिखित को अधिसूचित करती है, अर्थात्:

1. (1) इस स्कीम के अधीन प्रसुविधाओं का उपयोग करने के लिए इच्छुक व्यक्ति को आधार संख्यांक होने का प्रमाण प्रस्तुत करना अपेक्षित होगा या आधार अधिप्रमाणन प्रक्रिया पूरी करने की अपेक्षा होगी।

(2) जिस व्यक्ति के पास आधार संख्या नहीं है अथवा जिसने अभी तक आधार के लिए नामांकन नहीं कराया है, उसे 31 दिसम्बर, 2017 तक आधार नामांकन के लिए आवेदन करना होगा यदि वह उक्त अधिनियम की धारा 3 के उपबंधों के अनुसार आधार अभिप्राप्त करने का पात्र हो और ऐसे व्यक्ति आधार के नामांकन के लिए किसी भी आधार नामांकन केंद्र (सूची भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) की वेबसाइट www.uidai.gov.in पर उपलब्ध है) पर जा सकेंगे।

(3) आधार (नामांकन और अद्यतन) विनियम, 2016 के विनियम 12 के अनुसार मंत्रालय के लिए अपने क्रियान्वयन अभिकरण के माध्यम से ऐसे फायदाग्राहियों के लिए जिन्होंने आधार के लिए अभी तक नामांकन नहीं किया है, आधार नामांकन सुविधाएं प्रदान करना अपेक्षित है और यदि संबंधित ब्लॉक या तालुका या तहसील में कोई आधार नामांकन केंद्र नहीं है तो मंत्रालय स्वयं अपने क्रियान्वयन अभिकरण के माध्यम से भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) के मौजूदा रजिस्ट्रारों के समन्वय से या स्वयं मंत्रालय यूआईडीएआई रजिस्ट्रार बनकर सुविधाजनक स्थानों पर आधार नामांकन सुविधा प्रदान करेगा :

परंतु व्यक्ति को आधार दिए जाने तक ऐसे व्यक्तियों को स्कीम के अधीन फायदे निम्नलिखित दस्तावेज प्रस्तुत किए जाने के अधीन रहते हुए दिए जाएंगे; अर्थात्:

(क) (i) यदि उसने नामांकन करा लिया है तो उनका/उनकी आधार नामांकन स्लिप; या

(ii) पैरा 2 के उप-पैरा (2) में यथानिर्दिष्ट आधार नामांकन के लिए किए गए उसके आवेदन की एक प्रति; और

(ख) (i) फोटाग्राफ के साथ बैंक पासबुक; या (ii) भारत निर्वाचन आयोग द्वारा जारी मतदाता पहचान पत्र; या (iii) राशन कार्ड; या (iv) आयकर विभाग द्वारा जारी स्थायी खाता संख्या (पैन) कार्ड; या (v) पासपोर्ट; या (vi) महात्मा गांधी राष्ट्रीय रोजगार गारंटी योजना जॉब कार्ड; या (vii) किसान फोटो पासबुक; या (viii) मोटर यान अधिनियम, 1988 के अधीन अनुज्ञापन प्राधिकारी द्वारा जारी चालन अनुज्ञप्ति; या (ix) सरकारी पत्र शीर्ष पर राजपत्रित अधिकारी द्वारा जारी ऐसे व्यक्ति का फोटो पहचान प्रमाणपत्र; अथवा (x) मंत्रालय द्वारा यथा विनिर्दिष्ट कोई अन्य दस्तावेज :

परंतु यह और कि उपर्युक्त दस्तावेजों की जांच इस प्रयोजन के लिए मंत्रालय द्वारा विशिष्ट रूप से अभिहित अधिकारी द्वारा की जाएगी।

2. इस स्कीम के अधीन लाभार्थियों को सुविधाजनक और निर्बाध तरीके से प्रसुविधाएं प्रदान करने के लिए मंत्रालय अपने क्रियान्वयन अभिकरण के माध्यम से निम्नलिखित सहित सभी अपेक्षित व्यवस्थाएं करेगा, अर्थात्:

(1) इस स्कीम के अधीन आधार की आवश्यकता के बारे में फायदाग्राहियों को जागरूक बनाने के लिए मीडिया और व्यक्तिगत सूचनाओं के माध्यम से व्यापक प्रचार किया जाएगा और यदि वे पहले से नामांकित नहीं है तो उन्हें तारीख 31 दिसम्बर, 2017 तक उनके क्षेत्र में उपलब्ध निकटतम आधार नामांकन केंद्रों पर स्वयं को नामांकन कराने की सलाह दी जा सकेगी। उन्हें स्थानीय तौर पर उपलब्ध नामांकन केंद्रों की सूची उपलब्ध कराई जाएगी (सूची www.uidai.gov.in पर उपलब्ध है)।

(2) यदि इस स्कीम के अधीन फायदाग्राही, ब्लॉक या तालुका या तहसील जैसे आसपास के क्षेत्रों में नामांकन केंद्र उपलब्ध न होने के कारण आधार के लिए नामांकन कराने में असमर्थ है तो मंत्रालय अपने क्रियान्वयन अभिकरणो के माध्यम से सुविधाजनक स्थानों पर आधार नामांकन सुविधाएं उपलब्ध कराएगा और फायदाग्राहियों से कार्यान्वयन अभिकरण अथवा इस प्रयोजनार्थ उपलब्ध कराए गए वैब-पोर्टल के माध्यम से अभिहित अधिकारी को पैरा 1 के उप-पैरा (3) के प्रथम परंतुक में यथाविनिर्दिष्ट अपने नाम, पते, मोबाइल नं. और अन्य ब्यौरे प्रदान करके आधार नामांकन के लिए अपने अनुरोध को रजिस्ट्रीकृत कराने का अनुरोध किया जा सकेगा।

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3. यह अधिसूचना असम और मेघालय राज्यों को छोड़कर पूर्वोत्तर क्षेत्र के सभी राज्यों में राजपत्र में इसके प्रकाशन की तारीख से प्रभावी होगी।

[फा सं.6/21/2017-टीटी]

पुनीत अग्रवाल, संयुक्त सचिव

MINISTRY OF TEXTILES

NOTIFICATION

New Delhi the 5th October, 2017

S.O. 3296(E).—Whereas, the use of Aadhaar as identity for delivery of services or benefits or subsidies simplifies the Government delivery processes, brings in transparency and efficiency and enables beneficiaries to get their entitlements directly to them in a convenient and hassle free manner and Aadhaar obviates the need for producing multiple documents to prove one's identity;

And whereas, the Ministry of Textiles *(hereinafter referred to as the Ministry)* in the Government of India is administering the Central Sector Scheme namely, "Scheme for Promoting Usage of Agrotextiles in North East Region" *(hereinafter referred to as the Scheme)*, for the purpose of creating awareness and promoting usage of Agrotextile products in the North East Region (NER) of the country through the Office of Textile Commissioner as well as Synthetic and Art Silk Mills' Research Association (SASMIRA), (*hereinafter referred to as the Implementing Agencies*) who is engaged in the development of textile sector;

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And whereas, the aforesaid Scheme involves recurring expenditure incurred from the Consolidated Fund of India;

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(2) Any individual who does not possess the Aadhaar number or has not yet enrolled for Aadhaar, shall have to apply for Aadhaar enrolment by 31st December, 2017 in case he or she is entitled to obtain Aadhaar as per the provisions of section 3 of the said Act and such individual may visit any Aadhaar Enrolment Centre (list available at Unique Identification Authority of India website www.uidai.gov.in) for Aadhaar enrolment.

(3) As per regulation 12 of the Aadhaar (Enrolment and Update) Regulations, 2016, the Ministry through its Implementing Agencies, is required to offer Aadhaar enrolment facilities for the beneficiaries who are not yet enrolled for Aadhaar, and in case there is no Aadhaar enrolment centre located in the vicinity such as in the Block or Taluka or Tehsil, the Ministry through its Implementing Agencies shall provide Aadhaar enrolment facilities at convenient locations in coordination with the existing Registrars of Unique Identification Authority of India (UIDAI) or by the Ministry itself becoming UIDAI Registrar :

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(ii) a copy of his or her request made for Aadhaar enrolment, as specified in sub-paragraph (2) of paragraph 1; and

(b) (i) Bank Passbook with photograph; or (ii) Voter Identity Card issued by the Election Commission of India; or (iii) Ration Card; or (iv) Permanent Account Number (PAN) Card issued by the Income Tax Department; or (v) Passport; or (vi) Mahatma Gandhi National Rural Employment Guarantee Scheme Job Card; or (vii) Kisan Photo Passbook; or (viii) Driving Licence issued by the Licencing Authority under the Motor Vehicles Act, 1988; or (ix) Certificate of identity having photo of such person issued by a Gazetted Officer on an official letter head; or (x) any other documents as specified by the Ministry:

Provided further that the above documents shall be checked by an officer specially designated by the Ministry through its Implementing Agencies for that purpose.

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(2) In case, the beneficiaries under the Scheme are not able to enroll for Aadhaar due to non-availability of enrolment centres in the vicinity such as in the Block or Talukas or Tehsil, the Ministry through its Implementing Agencies shall provide Aadhaar enrolment facilities at convenient locations, and the beneficiaries may register their requests for Aadhaar enrolment by giving their names, addresses, mobile numbers and other details as specified in the first proviso to sub-paragraph (3) of paragraph 1, with the designated officer of the Implementing Agencies or through the web portal provided for the purpose.

3. This notification shall come into effect from the date of its publication in the Official Gazette in all the North-Eastern States except the States of Assam, and Meghalaya

[F.No. 6/21/2017-TT]

PUNEET AGARWAL, Jt Secy

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संस्कृति मंत्रालय

अधिसूचना

नई दिल्ली, 4 सितंबर, 2017

का.आ. 3033(अ).—सेवाओं या प्रसुविधाओं या सहायिकियों के परिदान के लिए एक पहचान दस्तावेज के रूप में आधार का उपयोग सरकारी परिदान प्रक्रियाओं का सरलीकरण करता है, पारदर्शिता और दक्षता लाता है और फायदाग्राहियों को सुविधापूर्वक और निर्बाध रीति में उनकी हकदारियों को मीथे प्राप्त करने में समर्थ बनाता है और आधार किसी व्यक्ति की पहचान को साबित करने के लिए विभिन्न दस्तावेज प्रस्तुत करने की आवश्यकता को समाप्त करता है;

और, भारत सरकार का संस्कृति मंत्रालय (जिसे इसमें इसके पश्चात् मंत्रालय कहा गया है) मंत्रालय अधीन एक स्वायत्त निकाय, संगीत नाटक अकादेमी, नई दिल्ली (जिसे इसमें इसके पश्चात् कार्यान्वयन अभिकरण कहा गया है) के माध्यम से एक केन्द्रीय सेक्टर स्कीम अर्थात "भारत की अमूर्त सांस्कृतिक विरासत और विविध सांस्कृतिक परंपराओं की सुरक्षा" (जिसे इसके पश्चात् स्कीम कहा गया है) का कार्यान्वयन कर रहा है;

और, पूर्वोक्त स्कीम में विभिन्न संगठनों को और व्यक्तियों को भी (जिन्हें इसमें इसके पश्चात् फायदाग्राही कहा गया है), जो वर्तमान स्कीम संबंधी मार्गदर्शी सिद्धांतों के अनुसार पात्र हैं, वित्तीय सहायता (जिसे इसमें इसके पश्चात् प्रसुविधा कहा गया है) हेतु उपबंध किया गया है;

और, पूर्वोक्त स्कीम में भारतीय संचित निधि से उपगत आवर्ती व्यय अन्तर्वलित है;

अतः, अब केन्द्रीय सरकार आधार (वित्तीय और अन्य सहायिकियों, प्रसुविधाओं और सेवाओं का लक्ष्यित परिदान) अधिनियम, 2016 (2016 का 18) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 7 के उपबंधों के अनुसरण में, निम्नलिखित को अधिसूचित करती है, अर्थात्:-

1. (1) स्कीम के अधीन प्रसुविधाओं का लाभ लेने के इच्छुक किसी व्यक्ति से उसके पास आधार होने का प्रमाण देने या आधार अधिप्रमाणन प्रक्रिया पूरी करने की अपेक्षा की जाती है।

(2) स्कीम के अधीन प्रसुविधाएं प्राप्त करने का हकदार किसी ऐसे व्यक्ति से, जिसके पास आधार संख्यांक नहीं है या जिसने आधार के लिए नामांकन नहीं कराया है, उनसे तारीख 30, सितंबर, 2017 तक आधार नामांकन के लिए आवेदन करने की अपेक्षा की जाएगी, परन्तु वह उक्त अधिनियम की धारा 3 के उपबंध के अनुसार आधार प्राप्त

करने के हकदार हों तथा ऐसा व्यक्ति आधार नामांकन के लिए किसी भी आधार नामांकन केन्द्र (सूची भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) की वेबसाइट www.uidai.gov.in पर उपलब्ध है) में जा सकते है।

(3) आधार (नामांकन और अद्यतन) विनियम, 2016 के विनियम 12 के अनुसार मंत्रालय से, उसके ऐसे कार्यान्वयन अभिकरण के माध्यम से ऐसे फायदाग्राहियों के लिए जिन्होंने आधार के लिए अभी तक नामांकन प्रस्तुत नहीं किया है, आधार नामांकन सुविधाए प्रदान करने की अपेक्षा की जाती है तथा संबंधित ब्लॉक या तालुका या तहसील मे कोई भी आधार नामांकन केन्द्र स्थित न होने की दशा में, मंत्रालय अपने कार्यान्वयन अभिकरण के माध्यम से उन्हें भारतीय विशिष्ट पहचान प्राधिकरण (यूआईडीएआई) के वर्तमान रजिस्ट्रारों के समन्वय से या स्वयं यूआईडीएआई रजिस्ट्रार के रूप में सुविधाजनक अवस्थानों पर आधार नामांकन सुविधाएं उपलब्ध करवाएगा।

परन्तु व्यक्ति को आधार समनुदेशित किए जाने के समय तक, ऐसे व्यक्तियों को निम्नलिखित दस्तावेज प्रस्तुत किए जाने के अध्यधीन स्कीम के अधीन प्रसुविधाएं दी जाएंगी, अर्थात्:-

(क) (i) यदि उसने नामांकन करा लिया है, तो उसकी आधार नामांकन पहचान की पर्ची; या

(ii) पैरा 2 के उप-पैरा (2) में यथाविनिर्दिष्ट, आधार नामांकन के लिए उसके द्वारा किए गए अनुरोध की प्रति ; तथा

(ख) निम्नलिखित दस्तावेजों में से कोई एक :

(i) भारत निर्वाचन आयोग द्वारा जारी मतदाता पहचान कार्ड; या

(ii) स्थायी खाता संख्यांक कार्ड; या

(iii) पासपोर्ट; या

(iv) मोटर यान अधिनियम 1988 (1988 का 59) के अधीन अनुज्ञापन प्राधिकारी द्वारा जारी चालन अनुज्ञप्ति; या

(v) किसी राजपत्रित अधिकारी या तहसीलदार द्वारा जारी उसके सरकारी लेटरहैड पर फोटो सहित पहचान प्रमाण-पत्र; या

(vi) डाक विभाग द्वारा जारी पता कार्ड जिसमे नाम और फोटो दिया गया हो; या

(vii) फोटो सहित बैंक पासबुक; या

(viii) राशन कार्ड; या

(ix) मंत्रालय द्वारा यथा विनिर्दिष्ट कोई अन्य दस्तावेज।

परन्तु यह और कि उपर्युक्त दस्तावेजों की जांच उस प्रयोजनार्थ कार्यान्वयन अभिकरण द्वारा पदाभिहित किसी अधिकारी द्वारा की जाएगी।

2. इस स्कीम के अधीन फायदाग्राहियों को सुविधाजनक और बाधा रहित प्रसुविधाएं प्रदान करने के लिए मंत्रालय अपने कार्यान्वयन अभिकरण के माध्यम से निम्नलिखित सहित सभी अपेक्षित व्यवस्थाएं करेगा, अर्थात् :—

(1) फायदाग्राहियो को स्कीम के अधीन आधार की अपेक्षा के प्रति उन्हें जागरूक बनाने के लिए मीडिया के माध्यम से और व्यक्तिगत सूचनाएं देकर व्यापक प्रचार-प्रसार किया जाएगा और उन्हें सलाह दी जा सकेगी कि यदि उन्होंने पहले से नामांकन नही कराया है, तो तारीख 30, सितंबर, 2017 तक अपने क्षेत्रों में उपलब्ध निकटतम आधार नामांकन केन्द्रों में अपने को नामांकित कराएं और उन्हें स्थानीय रूप से उपलब्ध नामांकन केन्द्रों की सूची उपलब्ध कराई जाएगी।

(2) यदि, स्कीम के अधीन फायदाग्राही ब्लॉक या तालुका या तहसील में निकटतम क्षेत्र में नामांकन केन्द्रों के उपलब्ध नहीं होने के कारण आधार के लिए नामांकन करने में असमर्थ हैं तो मंत्रालय अपने कार्यान्वयन अभिकरण के माध्यम से सुविधाजनक अवस्थानों पर आधार नामांकन सुविधाएं उपलब्ध कराएगा और फायदाग्राही, मंत्रालय या कार्यान्वयन अभिकरण के पदाभिहित पदधारियों या इस प्रयोजनार्थ उपलब्ध वेब पोर्टल के माध्यम से अपना नाम, पता, मोबाइल नंबर और पैरा 1 के उप पैरा (3) के पहले परन्तुक में यथा विनिर्दिष्ट अन्य ब्यौरे देकर आधार नामांकन के लिए अपने-अपने अनुरोध को रजिस्ट्रीकृत करा सकेंगे।

3. यह अधिसूचना असम, मेघालय और जम्मू-कश्मीर राज्यों को छोड़कर सभी राज्यों और संघ राज्यक्षेत्रों में राजपत्र में इसके प्रकाशन की तारीख से प्रभावी होगी।

[फा. सं. 6-10/2016-यूनेस्को]

एम. एल. श्रीवास्तव, संयुक्त सचिव

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MINISTRY OF CULTURE

NOTIFICATION

New Delhi, the 4th September, 2017

S.O. 3033(E).—Whereas, the use of Aadhaar as identity document for delivery of services or benefits or subsidies simplifies the Government delivery processes, brings in transparency and efficiency, and enables beneficiaries to get their entitlements directly in a convenient and seamless manner and Aadhaar obviates the need for producing multiple documents to prove one's identity;

And whereas, the Ministry of Culture (*hereinafter referred to as the Ministry*) in the Government of India is implementing a Central Sector Scheme namely, the "Safeguarding the Intangible Cultural Heritage and Diverse Cultural Traditions of India" (*hereinafter referred to as the Scheme*) through Sangeet Natak Akademi, New Delhi, an autonomous body under the Ministry (*hereinafter referred to as the Implementing Agency*),

And whereas, the aforesaid Scheme provides for financial assistance (*hereinafter referred to as the benefit*) to various organisations and also to the individuals (*hereinafter referred to as the beneficiaries*) who are eligible as per the extant Scheme guidelines;

And whereas, the aforesaid Scheme involves recurring expenditure incurred from the Consolidated Fund of India;

Now, therefore, in pursuance of the provisions of section 7 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016) (*hereinafter referred to as the said Act*), the Central Government hereby notifies the following, namely:—

1. (1) An individual desirous of availing benefits under the Scheme is hereby required to furnish proof of possession of Aadhaar or undergo Aadhaar authentication.

(2) Any individual entitled to receive benefits under the Scheme, who does not possess the Aadhaar Number or, has not enrolled for Aadhaar, shall be required to make application for Aadhaar enrolment by 30th September, 2017, provided he or she is entitled to obtain Aadhaar as per provision of section 3 of the said Act and such individuals may visit any Aadhaar enrolment center (list available at Unique Identification Authority of India (UIDAI) website www.uidai.gov.in) for Aadhaar enrolment.

(3) As per regulation 12 of the Aadhaar (Enrolment and Update) Regulations, 2016, the Ministry through its Implementing Agency, is required to offer Aadhaar enrolment facilities for the beneficiaries who are not yet enrolled for Aadhaar, and in case there is no Aadhaar enrolment centre located in the respective Block or Taluka or Tehsil, the Ministry through its Implementation Agency shall provide Aadhaar enrolment facilities at convenient locations in coordination with the existing Registrars of Unique Identification Authority of India (UIDAI) or by itself becoming UIDAI Registrar:

Provided that till the time Aadhaar is assigned to the individual, benefits under the Scheme shall be given to such individuals subject to the production of the following documents, namely :-

(a) (i) if she or he has enrolled, her or his Aadhaar Enrolment ID slip; or

(ii) a copy of her or his request made for Aadhaar enrolment, as specified in sub-paragraph (2) of paragraph 2; and

(b) Any one of the following documents:

(i) Voter ID card issued by the Election Commission of India; or

(ii) Permanent Account Number Card; or

(iii) Passport; or

(iv) Driving Licence issued by the Licencing authority under Motor Vehicles Act, 1988 (59 of 1988); or

(v) Certificate of Identity having photo issued by any Gazetted officer or Tehsildar on official letter head; or

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(vi) Address card having Name and Photo issued by Department of Posts; or

(vii) Bank Passbook with Photograph; or

(viii) Ration Card; or

(ix) any other document as specified by the Ministry:

Provided further that the above documents shall be checked by an officer designated by the implementing agency for that purpose.

2. In order to provide convenient and hassle free benefits under the Scheme to the beneficiaries, the Ministry through its Implementing Agency shall make all the required arrangements including the following; namely:—

(1) Wide publicity, through media and individual notices, shall be given to the beneficiaries to make them aware of the requirement of Aadhaar under the Scheme and they may be advised to get themselves enrolled at the nearest Aadhaar enrolment centers available in their areas by 30th September, 2017, in case they are not already enrolled and the list of locally available enrolment centres shall be made available to them.

(2) In case, the beneficiaries under the Scheme are not able to enroll for Aadhaar due to non-availability of enrolment centres in the vicinity such as in the Block or Taluka or Tehsil, the Ministry through its Implementation Agency shall provide Aadhaar enrolment facilities at convenient locations, and the beneficiaries may register their requests for Aadhaar enrolment by giving their names, addresses, mobile numbers and other details as specified in the first proviso to sub-paragraph (3) of paragraph 1, with the designated officials of the Ministry or Implementing Agency or through the web portal provided for the purpose.

3. This notification shall come into effect from the date of its publication in the Official Gazette in all the States and Union territories except the States of Assam, Meghalaya and the State of Jammu and Kashmir.

[F. No. 6-10/2016-UNESCO]

M. L. SRIVASTAVA, Jt. Secy.

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ANNEXURE- R/3
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PREVENTION OF MONEY-LAUNDERING (MAINTENANCE OF RECORDS) RULES, 2005

PREAMBLE

In exercise of the powers conferred by sub-section (1) read with clause (h), clause (i), clause (j) and clause (k) of sub-section (2) of section 73 of the Prevention of Money-laundering Act, 2002 (15 of 2003) the Central Government in consultation with the Reserve Bank of India, hereby makes the following rules for maintenance of records of the nature and value of transactions, the procedure and manner of maintaining and time for furnishing of information and verification of records of the identity of the clients of the banking companies, financial institutions and intermediaries, namely

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1. Short title and commencement.--

(1) These rules may be called the [30][Prevention of Money-laundering (Maintenance of Records) Rules], 2005.

(2) They shall come into force on the date of their publication1 in the Official Gazette.

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2. Definition.--

(1) In these rules, unless the context otherwise requires,--

(a) "Act" means the Prevention of Money-laundering Act, 2002 (15 of 2003);

[43][(aa) "Central KYC Records Registry" means a reporting entity, substantially owned and controlled by the Central Government, and authorised by that Government through a notification in the Official Gazette to receive, store, safeguard and retrieve the KYC records in digital form of a client as referred to in clause (ha) in such manner and to perform such other functions as may be required under these rules,]

[55][(aaa) "Aadhaar number" means an identification number as defined under sub-section (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016;

(aab) "authentication" means the process as defined under sub-section (c) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016,

(aac) "Resident" means an individual as defined under sub-section (v) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016;

(aad) "Identity information" means the information as defined in sub-section (n) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016;

(aae) "e - KYC authentication facility" means an authentication facility as defined in Aadhaar (Authentication) Regulations, 2016;

(aaf) "Yes/No authentication facility" means an authentication facility as defined in Aadhar (Authentication) Regulations, 2016;]

[31][(b) "client due diligence" means due diligence carried out on a client referred to in clause (ha) of sub-

section (1) of section 2 of the Act;]

[32][(ba) "Designated Director" means a person designated by the reporting entity to ensure overall compliance with the obligations imposed under chapter IV of the Act and the Rules and includes --

(i) the Managing Director or a whole-time Director duly authorized by the Board of Directors if the reporting entity is a company,

(ii) the managing partner if the reporting entity is a partnership firm,

(iii) the proprietor if the reporting entity is a proprietorship concern,

(iv) the managing trustee if the reporting entity is a trust,

(v) a person or individual, as the case may be, who controls and manages the affairs of the reporting entity if the reporting entity is an unincorporated association or a body of individuals, and

(vi) such other person or class of persons as may be notified by the Government if the reporting entity does not fall in any of the categories above.

Explanation. - For the purpose of this clause, the terms "Managing Director" and "Whole-time Director" shall have the meaning assigned to them in the [44][Companies Act, 2013 (18 of 2013)];]

[28][(bb) "Designated Officer" means any officer or a class of officers authorized by a banking company, either by name or by designation, for the purpose of opening small accounts.]

(c) "Director" means the Director appointed under sub-section (1) of section 49 of the Act for the purposes of [33][sections 12, 12A and 13] of the Act;

[43][(ca) "Know Your Client (KYC) Identifier" means the unique number or code assigned to a client by the Central KYC Records Registry;

(cb) "Know Your Client (KYC) records" means the records, including the electronic records, relied upon by a reporting entity in carrying out client due diligence as referred to in rule 9 of these rules;

(cc) "last KYC verification or updation" means the last transaction made by a reporting entity in the Central KYC Records Registry by which the KYC records of a client were recorded, changed or updated by a reporting entity;]

[10][([46][cd]) "non profit organisation" means any entity or organisation that is registered as a trust or a society under the Societies Registration Act, 1860 (21 of 1860) or any similar State legislation or a company registered under [45][section 8 of the Companies Act, 2013 (18 of 2013)],]

(d) "officially valid document" means [56][the passport, the driving licence, the Voter's Identity Card issued by Election Commission of India, job card issued by NREGA duly signed by an officer of the State Government, the letter issued by the National Population Register containing details of name, address or any other document as notified by the Central Government in consultation with the Regulator]

[32][Provided that where simplified measures are applied for verifying the identity of the clients the following documents shall be deemed to be 'officially valid documents:

(a) identity card with applicant's Photograph issued by Central/State Government Departments, Statutory/Regulatory Authorities, Public Sector Undertakings, Scheduled Commercial Banks, and Public Financial Institutions;

(b) letter issued by a gazetted officer, with a duly attested photograph of the person;]

[42][Provided further that where simplified measures are applied for verifying the limited purpose of proof of address of the clients, where a prospective customer is unable to produce any proof of address, the following documents shall be deemed to be 'officially valid document':

(a) utility bill which is not more than two months old of any service provider (electricity, telephone, post-paid mobile phone, piped gas, Water bill);

(b) property or Municipal tax receipt;

(c) bank account or Post Office savings bank account statement;

(d) pension or family pension payment orders (PPOs) issued to retired employees by Government Departments or Public Sector Undertakings, if they contain the address;

(e) letter of allotment of accommodation from employer issued by State or Central Government departments, statutory or regulatory bodies, public sector undertakings, scheduled commercial banks, financial institutions and listed companies. Similarly, leave and licence agreements with such employers allotting official accommodation; and

(f) documents issued by Government departments of foreign jurisdiction and letter issued by Foreign Embassy or Mission in India.]

[51][Explanation.- For the purpose of this clause, a document shall be deemed to an "officially valid document" even if there is a change in the name subsequent to its issuance provided it is supported by a marriage certificate issued by the State Government or Gazette notification, indicating such a change of name.]

(e) "prescribed value" means the value of transaction prescribed under these rules;

(f) "Principal Officer" means an officer designated by a [35][reporting entity];

[10][(fa) "Regulator" means a person or an authority or a Government which is vested with the power to license, authorise, register, regulate or supervise the activity of [36][reporting entities or the Director as may be notified by the Government for a specific reporting entity or a class of reporting entities or for a specific purpose];]

[53][(fa) Regulator means --

(i) a person or an authority or a Government which is vested with the power to license, authorise,

register, regulate or supervise the activity of reporting entities or the Director as may be notified by the Government for a specific reporting entity or a class of reporting entities or for a specific purpose;

(II) the Reserve Bank of India with respect to Central KYC Records Registry as defined in clause (aa) of sub-rule (1) of rule 2;]

[28][(fb) 'small account' means a savings account in a banking company where--

(i) the aggregate of all credits in a financial year does not exceed rupees one lakh,

(ii) the aggregate of all withdrawals and transfers in a month does not exceed rupees ten thousand, and

(iii) the balance at any point of time does not exceed rupees fifty thousand.]

[11][(g) "Suspicious transaction" means a transaction referred to in clause (h), including an attempted transaction, whether or not made in cash, which to a person acting in good faith-

(a) gives rise to a reasonable ground of suspicion that it may involve proceeds of an offence specified in the Schedule to the Act, regardless of the value involved; or

(b) appears to be made in circumstances of unusual or unjustified complexity; or

(c) appears to have no economic rationale or bonafide purpose; or

(d) gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism;]

[24][Explanation. - Transaction involving financing of the activities relating to terrorism includes transaction involving funds suspected to be linked or related to, or to be used for terrorism, terrorist acts or by a terrorist, terrorist organisation or those who finance or are attempting to finance terrorism.]

[37][(h) "transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery or the arrangement thereof and includes-

(i) opening of an account;

(ii) deposits, withdrawal, exchange or transfer of funds in whatever currency, whether in cash or by cheque, payment order or other instruments or by electronic or other non-physical means;

(iii) the use of a safety deposit box or any other form of safe deposit;

(iv) entering into any fiduciary relationship;

(v) any payment made or received in whole or in part of any contractual or other legal obligation;

(vi) any payment made in respect of playing games of chance for cash or kind including such activities

associated with casino; and

(vii) establishing or creating a legal person or legal arrangement.' --]

(2) All other words and expressions used and not defined in these rules but defined in the Act shall have the meaning respectively assigned to them in the Act.

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3. Maintenance of records of transactions (nature and value).--

38[Every reporting entity shall maintain the record of all transactions including, the record of --

(A) all cash transactions of the value of more than ten lakh rupees or its equivalent in foreign currency;

(B) all series of cash transactions integrally connected to each other which have been individually valued below rupees ten lakh or its equivalent in foreign currency where such series of transactions have taken place within a month and the monthly aggregate exceeds an amount of ten lakh rupees or its equivalent in foreign currency;]

10[(BA) all transactions involving receipts by non-profit organisations of value more than rupees ten lakh, or its equivalent in foreign currency;]

7[(C) all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine or where any forgery of a valuable security or a document has taken place facilitating the transactions]

(D) all suspicious transactions whether or not made in cash and by way of:

(i) deposits and credits, withdrawals into or from any accounts in whatsoever name they are referred to in any currency maintained by way of:

(a) cheques including third party cheques, pay orders, demand drafts, cashiers cheques or any other instrument of payment of money including electronic receipts or credits and electronic payments or debits, or

(b) travellers cheques, or

(c) transfer from one account within the same banking company, financial institution and intermediary, as the case may be, including from or to Nostro and Vostro accounts, or

(d) any other mode in whatsoever name it is referred to;

(ii) credits or debits into or from any non-monetary accounts such as d-mat account, security account in any currency maintained by the banking company, financial institution and intermediary, as the case may be;

(iii) money transfer or remittances in favour of own clients or non-clients from India or abroad and to third party beneficiaries in India or abroad including transactions on its own account in any currency by any of the following:-

(a) payment orders, or

(b) cashiers cheques, or

(c) demand drafts, or

(d) telegraphic or wire transfers or electronic remittances or transfers, or

(e) internet transfers, or

(f) Automated Clearing House remittances, or

(g) lock box driven transfers or remittances, or

(h) remittances for credit or loading to electronic cards, or

(i) any other mode of money transfer by whatsoever name it is called;

(iv) loans and advances including credit or loan substitutes, investments and contingent liability by way of:

(a) subscription to debt instruments such as commercial paper, certificate of deposits, preferential shares, debentures, securitised participation, inter bank participation or any other investments in securities or the like in whatever form and name it is referred to, or

(b) purchase and negotiation of bills, cheques and other instruments, or

(c) foreign exchange contracts, currency, interest rate and commodity and any other derivative instrument in whatsoever name it is called, or,

(d) letters of credit, standby letters of credit, guarantees, comfort letters, solvency certificates and any other instrument for settlement and/or credit support;

(v) collection services in any currency by way of collection of bills, cheques, instruments or any other mode of collection in whatsoever name it is referred to.

[32][(E) all cross border wire transfers of the value of more than five lakh rupees or Rs equivalent in foreign currency where either the origin or destination of fund is in India:

(F) all purchase and sale by any person of immovable property valued at fifty lakh rupees or more that is registered by the reporting entity, as the case may be.]

TOC

4. Records containing information -

The records referred to in rule 3 [19][shall contain all necessary information specified by the Regulator to permit reconstruction of individual transaction, including] the following information:-

(a) the nature of the transactions;

(b) the amount of the transaction and the currency in which it was denominated;

(c) the date on which the transaction was conducted, and

(d) the parties to the transaction.

TOC

[39][5. Procedure and manner of maintaining Information.--

(1) Every reporting entity shall maintain information in respect of transactions with its client referred to in rule 3 in accordance with the procedure and manner as may be specified by its regulator from time to time.

(2) Every reporting entity shall evolve an internal mechanism for maintaining such information in such form and manner and at such intervals as may be specified by its regulator from time to time.

(3) It shall be the duty of every reporting entity, its designated director, officers and employees to observe the procedure and the manner of maintaining information as specified by its regulator under sub-rule (1).]

Toc

6. [40][***]

Toc

[41][7. Procedure and manner of furnishing information. -

(1) Every reporting entity shall communicate to the Director the name, designation and address of the Designated Director and the Principal Officer.

(2) The Principal Officer shall furnish the information referred to in clauses (A), (B), (BA), (C), (D), (E) and (F) of sub-rule (1) of rule 3 to the Director on the basis of information available with the reporting entity. A copy of such information shall be retained by the Principal Officer for the purposes of official record.

(3) Every reporting entity shall evolve an internal mechanism having regard to any guidelines issued by [51][the Director in consultation with, its] regulator, for detecting the transactions referred to in clauses (A), (B), (BA), (C), (D), (E) and (F) of sub-rule (1) of rule 3 and for furnishing information about such transactions in such form as may be directed by [51][the Director in consultation with,] its Regulator.

(4) It shall be the duty of every reporting entity, its designated director, officers and employees to observe the procedure and the manner of furnishing information as specified by [51][the Director in consultation with,] its Regulator.

TOC

8. Furnishing of Information to the Director. -

(1) The Principal Officer of a reporting entity shall furnish the information in respect of transactions referred to in clauses (A), (B), (BA), (C) and (E) of sub-rule (1) of rule 3 every month to the Director by the 15th day of the succeeding month.

(2) The Principal Officer of a reporting entity shall furnish the information promptly in writing or by fax or by electronic mail to the Director in respect of transactions referred to in clause (D) of sub-rule (1) of rule 3 not later than seven working days on being satisfied that the transaction is suspicious.

(3) The Principal Officer of a reporting entity shall furnish, the information in respect of transactions referred to in clause (F) of sub-rule (1) of rule 3, every quarter to the Director by the 15th day of the month succeeding the quarter.

(4) For the purpose of this rule, delay of each day in not reporting a transaction or delay of each day in rectifying a mis-reported transaction beyond the time limit as specified in this rule shall constitute a separate violation.

TOC

9. Client Due Diligence.--

(1) Every reporting entity shall-

(a) at the time of commencement of an account-based relationship -

(i) identify its clients, verify their identity, obtain information on the purpose and intended nature of the business relationship; and

(ii) determine whether a client is acting on behalf of a beneficial owner, and identify the beneficial owner and take all steps to verify the identity of the beneficial owner:

Provided that where the Regulator is of the view that money laundering and terrorist financing risks are effectively managed and where this is essential not to interrupt the normal conduct of business, the Regulator may permit the reporting entity to complete the verification as soon as reasonably practicable following the establishment of the relationship; and

(b) in all other cases, verify identity while carrying out-

(i) transaction of an amount equal to or exceeding rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected, or

(ii) any international money transfer operations.

[43][(1A) Subject to the provisions of sub-rule (1), every reporting entity shall within three days after the commencement of an account-based relationship with a client, file the electronic copy of the client's KYC records with the Central KYC Records Registry;

(1B) The Central KYC Records Registry shall process the KYC records received from a reporting entity for de-duplicating and issue a KYC Identifier for each client to the reporting entity, which shall communicate the KYC Identifier in writing to their client;

(1C) Where a client, for the purposes of clause (a) and clause (b), submits a KYC Identifier to a reporting entity, then such reporting entity shall retrieve the KYC records online from the Central KYC Records Registry by using the KYC Identifier and shall not require a client to submit the same KYC records or information or any other additional identification documents or details, unless -

(I) there is a change in the information of the client as existing in the records of Central KYC Records Registry;

(II) the current address of the client is required to be verified;

(III) the reporting entity considers it necessary in order to verify the identity or address of the client, or to perform enhanced due diligence or to build an appropriate risk profile of the client.

(1D) A reporting entity after obtaining additional or updated information from a client under sub-rule (1C), shall as soon as possible furnish the updated information to the Central KYC Records Registry which shall update the existing KYC records of the client and the Central KYC Records Registry shall thereafter inform electronically all reporting entities who have dealt with the concerned client regarding updatation of KYC record of the said client.

(1E) The reporting entity which performed the last KYC verification or sent updated information in respect of a client shall be responsible for verifying the authenticity of the identity or address of the client.

(1F) A reporting entity shall not use the KYC records of a client obtained from the Central KYC Records Registry for purposes other than verifying the identity or address of the client and shall not transfer KYC records or any information contained therein to any third party unless authorised to do so by the client or by the Regulator or by the Director;

(1G) The regulator shall issue guidelines to ensure that the Central KYC records are accessible to the reporting entities in real time.]

(2) For the purpose of clause (a) of sub-rule (1), a reporting entity may rely on a third part; subject to the conditions that-

[47][(a) the reporting entity, within two days, obtains from the third party or from the Central KYC Records Registry records or the information of the client due diligence carried out by the third party.]

(b) the reporting entity takes adequate steps to satisfy itself that copies of identification data and other relevant documentation relating to the client due diligence requirements will be made available from the third party upon request without delay;

(c) the reporting entity is satisfied that such third party is regulated, supervised or monitored for, and has measures in place for compliance with client due diligence and record-keeping requirements in line with the requirements and obligations under the Act;

(d) the third party is not based in a country or jurisdiction assessed as high risk;

(e) the reporting entity is ultimately responsible for client due diligence and undertaking enhanced due diligence measures, as applicable; and

(f) where a reporting entity relies on a third party that is part of the same financial group, the Regulator may issue guidelines to consider any relaxation in the conditions (a) to (d).

(3) The beneficial owner for the purpose of sub-rule (1) shall be determined as under -

(a) where the client is a company, the beneficial owner is the natural person(s), who, whether acting alone

or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation.- For the purpose of this sub-clause-

1. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five percent of shares or capital or profits of the company,

2. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;

(b) where the client is a partnership firm, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of/entitlement to more than fifteen percent of capital or profits of the partnership,

(c) where the client is an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;

(d) where no natural person is identified under (a) or (b) or (c) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;

(e) where the client is a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership; and

(f) where the client or the owner of the controlling interest is a company listed on a stock exchange, or is a subsidiary of such a company, it is not necessary to identify and verify the identity of any shareholder or beneficial owner of such companies.

[57][(4) Where the client is an individual, who is eligible to be enrolled for an Aadhaar number, he shall for the purpose of sub-rule (1) submit to the reporting entity,-

(a) the Aadhaar number issued by the Unique Identification Authority of India; and

(b) the Permanent Account Number or Form No. 60 as defined in Income-tax Rules, 1962, and such other documents including in respect of the nature of business and financial status of the client as may be required by the reporting entity:

Provided that where an Aadhaar number has not been assigned to a client, the client shall furnish proof of application of enrolment for Aadhaar and in case the Permanent Account Number is not submitted, one certified copy of an 'officially valid document' shall be submitted.

Provided further that photograph need not be submitted by a client falling under clause (b) of sub-rule (1).

(4A) Where the client is an individual, who is not eligible to be enrolled for an Aadhaar number, he shall for the purpose of sub-rule (1), submit to the reporting entity, the Permanent Account Number or Form No. 60 as defined in the Income-tax Rules, 1962:

Provided that if the client does not submit the Permanent Account Number, he shall submit one certified copy of an 'officially valid document' containing details of his identity and address, one recent photograph and such other documents including in respect of the nature or business and financial status of the client as may be required by the reporting entity.

(5) Notwithstanding anything contained in sub-rules (4) and (4A), an individual who desires to open a small account in a banking company may be allowed to open such an account on production of a self-attested photograph and affixation of signature or thumb print, as the case may be, on the form for opening the account:

Provided that-

(i) the designated officer of the banking company, while opening the small account, certifies under his signature that the person opening the account has affixed his signature or thump print, as the case may be, in his presence;

(ii) the small account shall be opened only at Core Banking Solution linked banking company branches or in a branch where it is possible to manually monitor and ensure that foreign remittances are not credited to a small account and that the stipulated limits on monthly and annual aggregate of transactions and balance in such accounts are not breached, before a transaction is allowed to take place;

(iii) the small account shall remain operational initially for a period of twelve months, and thereafter for a further period of twelve months if the holder of such an account provides evidence before the banking company of having applied for any of the officially valid documents within twelve months of the opening of the said account, with the entire relaxation provisions to be reviewed in respect of the said account after twenty-four months;

(iv) the small account shall be monitored and when there is suspicion of money laundering or financing of terrorism or other high risk scenarios, the identity of client shall be established through the production of officially valid documents, as referred to in sub-rule (4) and the Aadhaar number of the client or where an Aadhaar number has not been assigned to the client, through the production of proof of application towards enrolment for Aadhaar along with an officially valid document;

(v) the foreign remittance shall not be allowed to be credited into the small account unless the identity of the client is fully established through the production of officially valid documents, as referred to in sub rule (4) and the Aadhaar number of the client or where an Aadhaar number has not been assigned to the client, through the production of proof of application towards enrolment for Aadhaar along with an officially valid document.

Provided that if the client is not eligible to be enrolled for the Aadhaar number, the identity of client shall be established through the production of an officially valid document.

(6) Where the client is a company, it shall for the purposes of sub-rule (1), submit to the reporting entity the

certified copies of the following documents:-

(I) Certificate of Incorporation;

(II) Memorandum and Articles of Association,

(III) A resolution from the Board of Directors and power of attorney granted to its managers, officers or employees to transact on its behalf;

(IV) (a) Aadhaar numbers; and

(b) Permanent Account Numbers or Form 60 as defined in the Income-tax Rules, 1962, issued to managers, officers or employees holding an attorney to transact on the company's behalf or where an Aadhaar number has not been assigned, proof of application towards enrolment for Aadhaar and in case Permanent Account Number is not submitted an officially valid document shall be submitted:

Provided that for the purpose of this clause if the managers, officers or employees holding an attorney to transact on the company's behalf are not eligible to be enrolled for Aadhaar number and do not submit the Permanent Account Number, certified copy of an officially valid document shall be submitted.

(7) Where the client is a partnership firm, it shall, for the purposes of sub-rule (1), submit to the reporting entity the certified copies of the following documents:-

(i) registration certificate;

(ii) partnership deed; and

(iii) (a) Aadhaar number; and

(b) Permanent Account Number or Form 60 as defined in the Income-tax Rules, 1962, issued to the person holding an attorney to transact on its behalf or where an Aadhaar number has not been assigned, proof of application towards enrolment for Aadhaar and in case Permanent Account Number is not submitted an officially valid document shall be submitted:

Provided that for the purpose of this clause, if the person holding an attorney to transact on the company's behalf is not eligible to be enrolled for Aadhaar number and does not submit the Permanent Account Number, certified copy of an officially valid document shall be submitted.

(8) Where the client is a trust, it shall, for the purposes of sub-rule (1) submit to the reporting entity the certified copies of the following documents:-

(I) registration certificate;

(II) trust deed; and

(III) (a) Aadhaar number; and

(b) Permanent Account Number or Form 60 as defined in the Income-tax Rules, 1962, issued to the person holding an attorney to transact on its behalf or where Aadhaar number has not been assigned,

proof of application towards enrolment for Aadhaar and in case Permanent Account Number is not submitted an officially valid document shall be submitted:

Provided that for the purpose of this clause if the person holding an attorney to transact on the company's behalf is not eligible to be enrolled for Aadhaar number and does not submit the Permanent Account Number, certified copy of an officially valid document shall be submitted.

(9) Where the client is an unincorporated association or a body of individuals, it shall submit to the reporting entity the certified copies of the following documents:-

(I) resolution of the managing body of such association or body of individuals;

(II) power of attorney granted to him to transact on its behalf;

(III) (a) the Aadhaar number; and

(b) Permanent Account Number or Form 60 as defined in the Income-tax Rules, 1962, issued to the person holding, an attorney to transact on its behalf or where Aadhaar number has not been assigned, proof of application towards enrolment for Aadhaar and in case the Permanent Account Number is not submitted an officially valid document shall be submitted; and

(iv) such information as may be required by the reporting entity to collectively establish the legal existence of such an association or body of individuals.

Provided that for the purpose of this clause if the person holding an attorney to transact on the company's behalf is not eligible to be enrolled for Aadhaar number and does not submit the Permanent Account Number, certified copy of an officially valid document shall be submitted.]

(10) Where the client is a juridical person, the reporting entity shall verify that any person purporting to act on behalf of such client is so authorized and verify the identity of that person.

(11) No reporting entity shall allow the opening of or keep any anonymous account or account in fictitious names or account on behalf of other persons whose identity has not been disclosed or cannot be verified.

(12) (I) Every reporting entity shall exercise ongoing due diligence with respect to the business relationship with every client and closely examine the transactions in order to ensure that they are consistent with their knowledge of the client, his business and risk profile and where necessary, the source of funds.

(ii) When there are suspicions of money laundering or financing of the activities relating to terrorism or where there are doubts about the adequacy or veracity of previously obtained client identification data, the reporting entity shall review the due diligence measures including verifying again the identity of the client and obtaining information on the purpose and intended nature of the business relationship, as the case may be.

(Iii) The reporting entity shall apply client due diligence measures also to existing clients on the basis of materiality and risk, and conduct due diligence on such existing relationships at appropriate times or as may be specified by the regulator, taking into account whether and when client due diligence measures have previously been undertaken and the adequacy of data obtained.

(13) (I) Every reporting entity shall carry out risk assessment to identify, assess and take effective measures to

mitigate its money laundering and terrorist financing risk for clients, countries or geographic areas, and products, services, transactions or delivery channels that is consistent with any national risk assessment conducted by a body or authority duly notified by the Central Government.

(II) The risk assessment mentioned in clause (I) shall -

(a) be documented;

(b) consider all the relevant risk factors before determining the level of overall risk and the appropriate level and type of mitigation to be applied;

(c) be kept up to date; and

(d) be available to competent authorities and self-regulating bodies.

(14) (i) The regulator shall issue guidelines incorporating the requirements of sub-rules (1) to (13) above and may prescribe enhanced or simplified measures to verify the client's identity taking into consideration the type of client, business relationship, nature and value of transactions based on the overall money laundering and terrorist financing risks involved.

Explanation.- For the purpose of this clause, simplified measures are not acceptable whenever there is a suspicion of money laundering or terrorist financing, or where specific higher-risk scenarios apply or where the risk identified is not consistent with the national risk assessment.

(ii) Every reporting entity shall formulate and implement a Client Due Diligence Programme, incorporating the requirements of sub-rules (1) to (13) and guidelines issued under clause (I) above.

(iii) the Client Due Diligence Programme shall include policies, controls and procedures, approved by the senior management, to enable the reporting entity to manage and mitigate the risk that have been identified either by the reporting entity or through national risk assessment.

[55][(15) Any reporting entity, at the time of receipt of the Aadhaar number under provisions of this rule, shall carry out authentication using either e-KYC authentication facility or Yes/No authentication facility provided by Unique Identification Authority of India.

(16) In case the client referred to in sub-rules (4) to (9) of rule 9 is not a resident or is a resident in the States of Jammu and Kashmir, Assam or Meghalaya and does not submit the Permanent Account Number, the client shall submit to the reporting entity one certified copy of officially valid document containing details of his identity and address, one recent photograph and such other document including in respect of the nature of business and financial status of the client as may be required by the reporting entity.

(17) (a) In case the client, eligible to be enrolled for Aadhaar and obtain a Permanent Account Number, referred to in sub-rules (4) to (9) of rule 9 does not submit the Aadhaar number or the Permanent Account Number at the time of commencement of an account based relationship with a reporting entity, the client shall submit the same within a period of six months from the date of the commencement of the account based relationship:

Provided that the clients, eligible to be enrolled for Aadhaar and obtain the Permanent Account Number, already having an account based relationship with reporting entities prior to date of this

notification, the client shall submit the Aadhaar number and Permanent Account Number by 31st December, 2017.

(b) As per regulation 12 of the Aadhaar (Enrolment and Update) Regulations, 2016, the local authorities in the State Governments or Union-territory Administrations have become or are in the process of becoming UIDAI Registrars for Aadhaar enrolment and are organising special Aadhaar enrolment camps at convenient locations for providing enrolment facilities in consultation with UIDAI and any individual desirous of commencing an account based relationship as provided in this rule, who does not possess the Aadhaar number or has not yet enrolled for Aadhaar, may also visit such special Aadhaar enrolment camps for Aadhaar enrolment or any of the Aadhaar enrolment centres in the vicinity with existing registrars of UIDAI.

(c) In case the client fails to submit the Aadhaar number and Permanent Account Number within the aforesaid six months period, the said account shall cease to be operational till the time the Aadhaar number and Permanent Account Number is submitted by the client:

Provided that in case client already having an account based relationship with reporting entities prior to date of this notification fails to submit the Aadhaar number and Permanent Account Number by 31st December, 2017, the said account shall cease to be operational till the time the Aadhaar number and Permanent Account Number is submitted by the client.

(18) In case the identity information relating to the Aadhaar number or Permanent Account Number submitted by the client referred to in sub-rules (4) to (9) of rule 9 does not have current address of the client, the client shall submit an officially valid document to the reporting entity.]

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[43][9A. Functions and obligations of the Central KYC Records Registry.--

(1) The Central Government shall within a period of [52][one hundred and eighty days] from the date of coming into force of the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2015 set-up a Central KYC Records Registry having its own seal for the purpose of receiving, storing, safeguarding and retrieving electronic copies of KYC records obtained by the reporting entities from their clients in accordance with these rules.

(2) The Central KYC Registry shall perform the following functions and obligations, namely: -

(a) shall follow any operating instructions issued by the Regulator, consistent with the guidelines referred to in clause (g) and issue the same to implement the requirements of these rules;

(b) shall be responsible for storing, safeguarding and retrieving the KYC records and making such records available online to reporting entities or Director;

(c) shall take all precautions necessary to ensure that the electronic copies of KYC records are not lost, destroyed or tampered with and that sufficient back up of electronic records are available at all times at an alternative safe and secure place;

(d) shall cause an annual audit of its controls, systems, procedures and safeguards and shall undertake corrective actions for deficiencies, if any;

(e) shall provide information only to the reporting entities which are registered with it on payment of fees as specified by the Regulator;

(f) shall appoint a compliance officer who shall be responsible for monitoring the compliance of the Act, the rules made and the notifications issued thereunder and also the guidelines and instructions issued by the Central Government and the Regulator and for redressal of client's grievances; the compliance officer shall immediately and independently report to the Central Government any noncompliance observed by him;

(g) the Regulator in consultation with the Central Government and the Central KYC Records Registry may issue guidelines to be followed by the reporting entities for filing the KYC records with the Central KYC Records Registry or any other matter in connection with or incidental thereto;

(h) the Central Government, in consultation with Regulator, may by notification in the public interest and in the interest of the regulated entities, direct that any of the provisions of rule 9 or rule 9A,-

(i) shall not apply to a class or classes of regulated entities; or

(ii) shall apply to the class or classes of regulated entities with such exceptions, modifications and adaptations as may be specified in the notification.]

[54][9B. Inspection by Reserve Bank of India.-

(1) The Reserve Bank may, with respect to functions of the Central Registry referred to in rule 9A, call for any information, statement or other particulars from the Central Registry or cause an inspection of the Central Registry to be made by one or more of its officers as the Reserve Bank may deem fit.

(2) The Reserve Bank shall supply to the Central Registry, a copy of the report of such inspection.

(3) It shall be the duty of every director or officer or employee of the Central Registry to produce before the officer making an inspection under sub-section (1) all such books, accounts and other documents in his custody and to furnish him with any statement and information relating to the affairs of the Central Registry, as the said officer may require of him.

(4) The expenses of the inspection under sub-rule (1) shall be borne by the Central Registry.]

10. Maintenance of the records of the identity of clients.--

[48][(1) Every reporting entity shall maintain the physical copy of records of the identity of its clients obtained in accordance with rule 9, after filing the electronic copy of such records with the Central KYC Records Registry.]

[49][(2) The records of the identity of clients shall be maintained by a reporting entity in the manner as may be specified by the Regulator from time to time.]

(3) Where the reporting entity does not have records of the identity of its existing clients, it shall obtain the records within the period specified by the regulator, failing which the reporting entity shall close the account of the clients after giving due notice to the client.

Explanation. - For the purpose of this rule, the expression "records of the identity of clients" shall include updated records of the identification data, account files and business correspondence.]

TOC

[32][10A. Furnishing of Report to Director.--

(1) The persons referred to in clause (c) of sub-section (2) of section 13 of the Act shall furnish reports on the measures taken to the Director every month by the 10th day of the succeeding month.

(2) The Director may relax the time interval in sub-rule (1) above to every three months on specific request made by the reporting entity based on reasonable cause.

TOC

10B. Expenses for audit.--

(1) The expenses of, and incidental to, audit referred to in sub-section (1A) of section 13 of the Act (including the remuneration of the accountant, qualified assistants, semi-qualified and other assistants who may be engaged by such accountant) shall be paid in accordance with the amount specified in sub-rule (2) of rule 14B of the Income-tax Rules, 1962 for every hour of the period as specified by the Director.

(2) The period referred to in sub-rule (1) shall be specified in terms of the number of hours required for completing the report.

(3) The accountant referred to in sub-section (1A) of section 13 of the Act shall maintain a time sheet and submit it to the Director, along with the bill.

(4) The Director shall ensure that the number of hours claimed for billing purposes is commensurate with the size and quality of the report submitted by the accountant.]

TOC

11. Interpretation. -

If any question arises relating to the interpretation of these rules, the matter shall be referred to the Central Government and the decision of the Central Government shall be final.

TOC

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1. Publication date - 01.07.2005.

2. Substituted by Notification No. GSR717(E) dated 13.12.2005

"the Securities and Exchange Board of India"

3. Substituted by Notification No. GSR717(E) dated 13.12.2005

"the Reserve Bank of India and the Securities and Exchange Board of India under sub-rule (3)"

4. Substituted by Notification No. GSR717(E) dated 13.12.2005

"by the 7th day of the"

5. Substituted by Notification No. GSR717(E) dated 13.12.2005

A "the Reserve Bank of India from time to time"

6. Substituted by Notification No. GSR389(E) dated 24.05.2007 for the following

"(c) appears to have no economic rationale or bonafide purpose."

7. Substituted by Notification No. GSR389(E) dated 24.05.2007 for the following :

"(C) all cash transactions where forged or counterfeit currency notes or bank notes have been used as genuine and where any forgery of a valuable security has taken place"

8 Substituted by Notification No. GSR389(E) dated 24 05.2007 for the following :

"The Principal Officer of a banking company, the financial institution and intermediary, as the case may be, shall furnish the information in respect of transactions referred to in rule 3 every month to the Director 4[by the 15th day of the] succeeding month other than transactions referred to in clauses (C) and (D) of sub-rule (1) of rule 3:

Provided that information in respect of transactions referred to in clauses (C) and (D) of sub-rule (1) of rule 3 shall be promptly furnished in writing or by way of fax or electronic mail to the Director not later than three working days from the date of occurrence of such transactions "

9. Substituted by Notification No. GSR389(E) dated 24.05.2007 for the words 'three certified copies"

10. Inserted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2009 vide Notification No. GSR816(E) Date 12.11.2009

11. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2009 vide Notification No. GSR816(E) Date 12.11.2009 for the following , -

"(g) "suspicious transaction" means a transaction whether or not made in cash which, to a person acting in good faith -

(a) gives rise to a reasonable ground of suspicion that it may involve the proceeds of crime; or

(b) appears to be made in circumstances of unusual or unjustified complexity; or

6[(c) appears to have no economic rationale or bona fide purpose; or

(d) gives rise to a reasonable ground of suspicion that it may involve financing of the activities relating to terrorism]"

12. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2009 vide Notification No. GSR816(E) Date 12.11.2009 for the following , -

"the Reserve Bank of India or 2[the Securities and Exchange Board of India or the Insurance Regulatory and Development

Authority,] as the case may be,'

13. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2009 vide Notification No. GSR816(E) Date 12.11.2009 for the following : -

"8. Retention of records -

The records referred to in rule 3 shall be maintained for a period of ten years from the date of cessation of the transactions between the client and the banking company, financial institution or intermediary, as the case may be."

14. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2009 vide Notification No. GSR816(E) Date 12.11.2009 for the following : -

"5[Reserve Bank of India or the Securities and Exchange Board of India or the Insurance Regulatory and Development Authority, as the case may be"

15. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2009 vide Notification No. GSR816(E) Date 12.11.2009 for the words : - "clauses (A) and (B)"

16. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2009 vide Notification No. GSR816(E) Date 12.11.2009 for the following : -

"(1) Every banking company, financial institution and intermediary, as the case may be, shall, at the time of opening an account or executing any transaction with it, verify and maintain the record of identity and current address or addresses including permanent address or addresses of the client, the nature of business of the client and his financial status:

Provided that where it is not possible to verify the identity of the client at the time of opening an account or executing any transaction, the banking company, financial institution and intermediary, as the case may be, shall verify the identity of the client within a reasonable time after the account has been opened or the transaction has been executed.

(2) Where the client is an individual, he shall for the purpose of sub-rule (1) submit to the banking company or the financial institution or the intermediary, as the case may be, one certified copy of an officially valid document containing details of his permanent address or addresses, current address or addresses, and one copy of his recent photograph and such other documents including in respect of the nature of business and financial status of the client as may be required by the banking company or the financial institution or the intermediary, as the case may be."

17. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2009 vide Notification No. GSR816(E) Date

12.11.2009 for the following -

"(7) Every banking company, financial institution and intermediary as the case may be, shall formulate and implement a client identification programme which shall incorporate the requirements of the foregoing sub-rules of this rule, and such other additional requirements that it considers appropriate to enable it to determine the true identity of its clients. A copy of the client identification programme shall be forwarded to the Director."

18. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2010 vide Notification No. GSR76(E) dated 12.02.2010 previous text was :- "shall maintain a record of"

19. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2010 vide Notification No. GSR76(E) dated 12.02.2010 previous text was :- "shall contain"

20. Omitted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2010 vide Notification No. GSR76(E) dated 12.02.2010 previous text was :- "in hard and soft copies"

21. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2010 vide Notification No. GSR76(E) dated 12.02.2010 previous text was - "referred to in rule 3"

22. Omitted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2010 vide Notification No. GSR76(E) dated 12.02.2010 previous text was :- "referred to in rule 3"

23. Inserted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2010 vide Notification No. GSR76(E) dated 12.02.2010.

24. Inserted by the Prevention of Money- laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Second Amendment Rules, 2010 vide Notification No. GSR508(E) dated 16.06.2010.

25. Substituted by the Prevention of Money- laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Second Amendment Rules, 2010 vide Notification No. GSR508(E) dated 16.06.2010 for the following :-

"(1A) Every banking company, financial institution and intermediary, as the case may be, shall identify the beneficial owner and take all reasonable steps to verify his identity."

26. Substituted by the Prevention of Money- laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Second Amendment Rules, 2010 vide Notification No. GSR508(E) dated 16.06.2010 for the following : -

"(1B) Every banking company, financial institution and intermediary, as the case may be, shall exercise ongoing due diligence with respect to the business relationship with every client and closely examine the transactions in order to ensure that they are consistent with their knowledge of the customer, his business and risk profile."

27. Substituted by the Prevention of Money- laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Second Amendment Rules, 2010 vide Notification No. GSR508(E) dated 16.06.2010 for the following : -

"(1C) No banking company, financial institution or intermediary, as the case may be, shall keep any anonymous account or account in fictitious names."

28. Inserted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) 3rd Amendment Rules, 2010 vide Notification No. GSR980(E) dated 21.12.2010 w.e.f. 21.12.2010.

29. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) 3rd Amendment Rules, 2010 vide Notification No . GSR980(E) dated 21.12.2010 w.e.f. 21 12 2010 for the following : -

"the Election Commission of India or any other document as may be required by the banking company, or financial institution or intermediary;"

30. Substituted by the Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Amendment Rules, 2011 vide Notification No. GSR461(E) dated 24 06 2011 for the following . -

"Prevention of Money-laundering (Maintenance of Records of the Nature and Value of Transactions, the Procedure and Manner of Maintaining and Time for Furnishing Information and Verification and Maintenance of Records of the Identity of the Clients of the Banking Companies, Financial Institutions and Intermediaries) Rules"

31. Substituted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013 w.e.f. 27.08.2013, for the following : -

"(b) "client" means a person that engages in a financial transaction or activity with a banking company, or financial institution or intermediary and includes a person on whose behalf the person that engages in the transaction or activity, is acting;"

32. Inserted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013.

33. Substituted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013 w.e.f. 27.08.2013. for the following : -

"sections 12 and 13"

34. Substituted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013 w.e.f. 27.08.2013. for the following : -

"Reserve Bank of India or any other document as may be required by the banking companies, or financial institution or intermediary"

35. Substituted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013 w.e.f. 27.08.2013. for the following : -

"banking company, financial institution and intermediary, as the case may be"

36. Substituted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013 w.e.f. 27.08.2013. for the following : -

"banking companies, financial institutions or intermediaries, as the case may be"

37. Substituted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013 w.e.f. 27.08.2013. for the following -

"(h) "transaction" includes deposit, withdrawal, exchange or transfer of funds in whatever currency, whether in cash or by cheque, payment order or other instruments or by electronic or other non-physical means"

38. Substituted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013 w.e.f. 27.08.2013. for the following : -

"(1) Every banking company or financial institution or intermediary, as the case may be, 18[shall maintain the record of all transactions including the record of], -

(A) all cash transactions of the value of more than rupees ten lakhs or its equivalent in foreign currency;

(B) all series of cash transactions integrally connected to each other which have been valued below rupees ten lakhs or its equivalent in foreign currency where such series of transactions have taken place within a month;"

39. Substituted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013 w.e.f. 27.08.2013. for the following -

"5. Procedure and manner of maintaining information. -

(1) Every banking company, financial institution and intermediary, as the case may be shall maintain information in respect of transactions with its client referred to in rule 3 20[***] in accordance with the procedure and manner as may be specified by 12[its Regulator] from time to time.

(2) Every banking company, financial institution and intermediary, shall evolve an internal mechanism for maintaining

such information in such form and at such intervals as may be specified by the Reserve Bank of India, or 2[the Securities and Exchange Board of India or the Insurance Regulatory and Development Authority,] as the case may be, from time to time.

(3) It shall be the duty of every banking company, financial institution and intermediary, as the case may be, to observe the procedure and the manner of maintaining information as specified by the Reserve Bank of India or 2[the Securities and Exchange Board of India or the Insurance Regulatory and Development Authority,] as the case may be, under sub-rule (1)."

40. Omitted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013 w.e.f. 27.08.2013. for the following . -

"[13][6. Retention of records of transactions.--

The records referred to in rule 3 shall be maintained for a period of ten years from the date of transactions between the client and the banking company, financial institution or intermediary, as the case may be.]"

41. Substituted Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2013 vide Notification No. GSR576(E) Dated 27.08.2013 w.e.f. 27 08 2013 for the following . -

"7. Procedure and manner of furnishing information.—

(1) Every banking company, financial institution and intermediary, as the case may be, shall communicate the name, designation and address of the Principal Officer to the Director.

(2) The Principal Officer shall furnish the information 21[referred to in clauses (A), (B), (BA), (C) and (D) of sub-rule (1) of rule 3] to the Director on the basis of information available with the banking company, financial institution and intermediary, as the case may be. A copy of such information shall be retained by the Principal Officer for the purposes of official record.

(3) Every banking company, financial institution and intermediary may evolve an internal mechanism for furnishing information 21[referred to in clauses (A), (B), (BA), (C) and (D) of sub-rule (1) of rule 3] in such form and at such intervals as may be directed by 10[its Regulator]

(4) It shall be the duty of every banking company, financial institution and intermediary to observe the procedure and the manner of furnishing information [22][***] as specified by 3[Reserve Bank of India, the Securities and Exchange Board of India and the Insurance Regulatory and Development Authority under sub-rule (3),] as the case may be."

[8. Furnishing of Information to the Director.--

(1) The Principal Officer of a banking company, a financial institution and an intermediary, as the case may be, shall furnish the information in respect of transactions referred to in 15[clauses (A), (B) and (BA)] of sub-rule (1) of rule 3 every month to the Director by the 15th day of the succeeding month

(2) The Principal Officer of a banking company, a financial institution and an intermediary, as the case may be, shall furnish the information promptly in writing or by fax or by electronic mail to the Director in respect of transactions referred to in clause (C) of sub-rule (1) of rule 3 not later than seven working days from the date of occurrence of such transaction.

(3) The Principal Officer of a banking company, a financial institution and an intermediary, as the case may be, shall furnish the information promptly in writing or by fax or by electronic mail to the Director in respect of transactions referred to in clause (D) of sub-rule (1) of rule 3 not later than seven working days on being satisfied that the transaction is suspicious]

[19][Provided that a banking company, financial institution or intermediary, as the case may be, and its employees shall keep the fact of furnishing information in respect of transactions referred to in clause (D) of sub-rule (1) of rule 3 strictly confidential.]

9. Verification of the records of the identity of clients.--

16[(1) Every banking company, financial institution and intermediary, as the case may be, shall,--

(a) at the time of commencement of an account-based relationship, identify its clients, verify their identity and obtain information on the purpose and intended nature of the business relationship, and

(b) in all other cases, verify identity while carrying out.

(i) transaction of an amount equal to or exceeding rupees fifty thousand, whether conducted as a single transaction or several transactions that appear to be connected, or

(ii) any international money transfer operations.

25[(1A) Every banking company, financial institution and intermediary, as the case may be, shall identify the beneficial owner and take all reasonable steps to verify his identity.]

23[Explanation --For the purposes of this sub-rule "beneficial owner" shall mean the natural person who ultimately owns or controls a client and or the person on whose behalf a transaction is being conducted, and includes a person who exercise ultimate effective control over a juridical person.]

26[(1B) Every banking company, financial institution and intermediary, as the case may be, shall exercise ongoing due diligence with respect to the business relationship with every client and closely examine the transactions in order to ensure that they are consistent with their knowledge of the client, his business and risk profile and where necessary, the source of funds.]

27[(1C) No banking company, financial institution or intermediary, as the case may be shall allow the opening of or keep any anonymous account or account in fictitious names or account on behalf of other persons whose identity has not been disclosed or cannot be verified.]

24[(1D) When there are suspicions of money laundering or financing of the activities relating to terrorism or where there are doubts about the adequacy or veracity of previously obtained customer identification data every banking company, financial institution and intermediary shall review the due diligence measures including verifying again the identity of the client and obtaining information on the purpose and intended nature of the business relationship, as the case may be.]

(2) Where the client is an individual, he shall for the purpose of sub-rule (1), submit to the banking company, financial institution and intermediary, as the case may be, one certified copy of an 'officially valid document' containing details of his identity and address, one recent photograph and such other documents including in respect of the nature of business and financial status of the client as may be required by the banking company or the financial institution or the

intermediary, as the case may be :

Provided that photograph need not be submitted by a client falling under clause (b) of sub-rule (1)]

28[(2A) Notwithstanding anything contained in sub-rule (2), an individual who desires to open a small account in a banking company may be allowed to open such an account on production of a self-attested photograph and affixation of signature or thumb print, as the case may be, on the form for opening the account:

Provided that --

(i) the designated officer of the banking company, while opening the small account, certifies under his signature that the person opening the account has affixed his signature or thumb print, as the case may be, in his presence;

(ii) a small account shall be opened only at Core Banking Solution linked banking company branches or in a branch where it is possible to manually monitor and ensure that foreign remittances are not credited to a small account and that the stipulated limits on monthly and annual aggregate of transactions and balance in such accounts are not breached, before a transaction is allowed to take place;

(iii) a small account shall remain operational initially for a period of twelve months, and thereafter for a further period of twelve months if the holder of such an account provides evidence before the banking company of having applied for any of the officially valid documents within twelve months of the opening of the said account, with the entire relaxation provisions to be reviewed in respect of the said account after twenty four months;

(iv) a small account shall be monitored and when there is suspicion of money laundering or financing of terrorism or other high risk scenarios, the identity of client shall be established through the production of officially valid documents, as referred to in sub-rule (2) of rule 9, and

(v) foreign remittance shall not be allowed to be credited into a small account unless the identity of the client is fully established through the production of officially valid documents, as referred to in sub-rule (2) of rule 9.]

(3) Where the client is a company, it shall for the purposes of sub-rule (1) submit to the banking company or financial institution or intermediary, as the case may be, 9[one certified copy] of the following documents :

(i) Certificate of incorporation;

(ii) Memorandum and Articles of Association;

(iii) a resolution from the Board of Directors and power of attorney granted to its managers, officers or employees to transact on its behalf, and (iv) an officially valid document in respect of managers, officers or employees holding an attorney to transact on its behalf.

(4) Where the client is a partnership firm, it shall for the purposes of sub-rule (1) submit to the banking company, or the financial institution, or the intermediary 9[one certified copy] of the following documents:

(i) registration certificate; (ii) partnership deed, and

(iii) an officially valid document in respect of the person holding an attorney to transact on its behalf.

(5) Where the client is a trust, it shall, for the purposes of sub-rule (1) submit to the banking company, or the financial institution, or the intermediary 9[one certified copy] of the following documents

(I) registration certificate;

(II) trust deed, and

(iii) an officially valid document in respect of the person holding an attorney to transact on its behalf.

(6) Where the client is an unincorporated association or a body of individuals, it shall submit to the banking company, or the financial institution or the intermediary 9[one certified copy] of the following documents.

(I) resolution of the managing body of such association or body of individuals;

(II) power of attorney granted to him to transact on its behalf,

(iii) an officially valid document in respect of the person holding an attorney to transact on its behalf, and

(iv) such information as may be required by the banking company or the financial institution or the intermediary to collectively establish the legal existence of such an association or body of individuals.

10[;6A) Where the client is a juridical person, the banking company, financial institution and intermediary, as the case may be, shall verify that any person purporting to act on behalf of such client is so authorised and verify the identity of that person.]

12[;7) (I) The regulator shall issue guidelines incorporating the requirements of sub- rules (1) to (6A) above and may prescribe enhanced measures to verify the client's identity taking into consideration type of client, business relationship or nature and value of transactions.

(II) Every banking company, financial institution and intermediary as the case may be, shall formulate and implement a Client Identification Programme to determine the true identity of its clients, incorporating requirements of sub-rules (1) to (6A) and guidelines issued under clause (I) above.]

10. Maintenance of the records of the identity of clients. -

(1) Every banking company or financial institution or intermediary, as the case may be, shall maintain the records of the identity of its clients.

(2) The records of the identity of clients shall be maintained in hard and soft copies in a manner as may be specified by 14[its regulator], from time to time]

(3) The records of the identity of clients shall be maintained for a period of ten years from the date of cessation of the transactions between the client and the banking company or financial institution or intermediary, as the case may be.

24[Explanation. - For the purposes of this rule, -

(I) the expression 'records of the identity of clients' shall include records of the identification data, account files and business correspondence.

(II) the expression 'cessation of the transactions' means termination of an account or business

relationship.]"

42. Inserted by the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2015 vide Notification No. 01/2015 dated 16.04.2015.

43. Inserted by the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2015 vide Notification No. 04/2015 dated 07.07.2015

44. Substituted by the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2015 vide Notification No 04/2015 dated 07.07.2015 for the following : - "Companies Act, 1956 (1 of 1956)"

45. Substituted by the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2015 vide Notification No. 04/2015 dated 07.07.2015 for the following : - " section 25 of the Companies Act, 1956 (1 of 1956)"

46. Renumbered by the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2015 vide Notification No 04/2015 dated 07.07.2015.

47. Substituted by the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2015 vide Notification No. 04/2015 dated 07.07.2015 for the following - "(a) the reporting entity immediately obtains necessary information of such client due diligence carried out by the third party;"

48. Substituted by the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2015 vide Notification No. 04/2015 dated 07.07.2015 for the following : - "(1) Every reporting entity shall maintain the records of the identity of its clients obtained in accordance with rule 9."

49. Substituted by the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2015 vide Notification No. 04/2015 dated 07.07.2015 for the following : - "(2) The records of the identity of clients shall be maintained in a manner as may be specified by its regulators from time to time."

50. Substituted by the Prevention of Money-laundering (Maintenance of Records) Third Amendment Rules, 2015 vide Notification No 05/2015 dated dated 11.09.2015 for the following - "thirty days"

51. Inserted by the Prevention of Money-laundering (Maintenance of Records) Third Amendment Rules, 2015 vide Notification No. 07/2015 dated 22.09.2015.

52. Substituted by the Prevention of Money-laundering (Maintenance of Records) Fourth Amendment Rules, 2015 vide Notification No. 08/2015 dated 16.11.2015 for the following . - "[50][ninety days]"

53. Substituted by the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2017 vide Notification No 01/2017 dated 12.04.2017 for the following'-

"[32][(faa) "Rules" means the Prevention of Money-laundering (Maintenance of Records) Rules, 2005,]"

54. Inserted by the Prevention of Money-laundering (Maintenance of Records) Amendment Rules, 2017 vide Notification No 01/2017 dated 12.04.2017.

55. Inserted by the Prevention of Money-laundering (Maintenance of Records) Second Amendment Rules, 2017 vide Notification No 02/2017(E) dated 01.06.2017.

56. Substituted by the Prevention of Money-laundering (Maintenance of Records) Second Amendment Rules, 2017 vide Notification No.

02/2017(E) dated 01.06.2017 for the following -

'the passport, the driving licence, the Permanent Account Number (PAN) Card, the Voter's Identity Card issued by [29][Election Commission of India, job card issued by NREGA duly signed by an officer of the State Government, the letter issued by the Unique Identification Authority of India [42][or the National Population Register] containing details of name, address and Aadhaar number or any other document as notified by the Central Government in consultation with the [34][Regulator].]"

57 Substituted by the Prevention of Money-laundering (Maintenance of Records) Second Amendment Rules, 2017 vide Notification No. 02/2017(E) dated 01.06.2017 for the following:-

'(4) Where the client is an individual, he shall for the purpose of sub-rule (1), submit to the reporting entity, one certified copy of an 'officially valid document' containing details of his identity and address, one recent photograph and such other documents including in respect of the nature of business and financial status of the client as may be required by the reporting entity:

Provided that photograph need not be submitted by a client falling under clause (b) of sub-rule (1).

(5) Notwithstanding anything contained in sub-rule (4), an individual who desires to open a small account in a banking company may be allowed to open such an account on production of a self-attested photograph and affixation of signature or thumb print, as the case may be, on the form for opening the account:

Provided that-

(i) the designated officer of the banking company, while opening the small account, certifies under his signature that the person opening the account has affixed his signature or thumb print, as the case may be, in his presence;

(ii) a small account shall be opened only at Core Banking Solution linked banking company branches or in a branch where it is possible to manually monitor and ensure that foreign remittances are not credited to a small account and that the stipulated limits on monthly and annual aggregate of transactions and balance in such accounts are not breached, before a transaction is allowed to take place;

(iii) a small account shall remain operational initially for a period of twelve months, and thereafter for a further period of twelve months if the holder of such an account provides evidence before the banking company of having applied for any of the officially valid documents within twelve months of the opening of the said account, with the entire relaxation provisions to be reviewed in respect of the said account after twenty four months;

(iv) a small account shall be monitored and when there is suspicion of money laundering or financing of terrorism or other high risk scenarios, the identity of client shall be established through the production of officially valid documents, as referred to in sub-rule (4) of rule 9, and

(v) foreign remittance shall not be allowed to be credited into a small account unless the identity of the client is fully established through the production of officially valid documents, as referred to in sub-rule (4) of rule 9

(6) Where the client is a company, it shall for the purposes of sub-rule (1) submit to the reporting entity one certified copy of the following documents -

(i) Certificate of incorporation;

(ii) Memorandum and Articles of Association;

(iii) A resolution from the Board of Directors and power of attorney granted to its managers, officers or employees to transact on its behalf; and

(iv) an officially valid document in respect of managers, officers or employees holding an attorney to transact on its behalf

(7) Where the client is a partnership firm, it shall for the purposes of sub-rule (1) submit to the reporting entity one certified copy of the following documents -

(i) registration certificate;

(ii) partnership deed, and

(iii) an officially valid document in respect of the person holding an attorney to transact on its behalf.

(8) Where the client is a trust, it shall, for the purposes of sub-rule (1) submit to the reporting entity one certified copy of the following documents.-

(i) registration certificate;

(ii) trust deed; and

(iii) an officially valid document in respect of the person holding an attorney to transact on its behalf

(9) Where the client is an unincorporated association or a body of individuals, it shall submit to the reporting entity one certified copy of the following documents:-

(i) resolution of the managing body of such association or body of individuals;

(ii) power of attorney granted to him to transact on its behalf,

(iii) an officially valid document in respect of the person holding an attorney to transact on its behalf; and

(iv) such information as may be required by the reporting entity to collectively establish the legal existence of such an association or body of individuals."

ANNEXURE-R/4
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Government of India
Ministry of Communications
Department of Telecommunications
(Access Services Cell)
12th Floor, Sanchar Bhawan, 20 Ashoka Road, New Delhi – 110 001.

File No: 800-26/2016-AS.II

Dated: 23.03.2017

To

All Unified Licensees (having Access Service Authorization)/ Unified Licensees (AS)/ Unified Access Services Licensees/ Cellular Mobile Telephone Service Licensees.

Subject: Implementation of orders of Hon'ble Supreme Court regarding 100% E-KYC based re-verification of existing subscribers- regarding

Hon'ble Supreme Court, in its order dated 06.02.2017 passed in Writ Petition (C) No. 607/2016 filed by Lokniti Foundation v/s Union of India, while taking into cognizance of "Aadhaar based E-KYC process for issuing new telephone connection" issued by the Department, has inter-alia observed that *"an effective process has been evolved to ensure identity verification, as well as, the addresses of all mobile phone subscribers for new subscribers. In the near future, and more particularly, within one year from today, a similar verification will be completed, in case of existing subscribers."* This amounts to a direction which is to be completed within a time frame of one year.

2. A meeting was held on 13.02.2017 in the Department with the telecom industry wherein UIDAI, TRAI and PMO representatives also participated to discuss the way forward to implement the directions of Hon'ble Supreme Court. Detailed discussions and deliberations were held in the meeting. The suggestions received from the industry have been examined in the Department.

3. Accordingly, after taking into consideration the discussions held in the meeting and suggestions received from telecom industry, the undersigned is directed to convey the approval of competent authority that all Licensees shall re-verify all existing mobile subscribers (prepaid and postpaid) through Aadhaar based E-KYC process as mentioned in this office letter no. 800-29/2010-VAS dated 16.08.2016. The instructions mentioned in subsequent paragraphs shall be strictly followed while carrying out the re-verification exercise.

4. All Licensees shall intimate their existing subscribers through advertisement in print/electronic media as well as SMS about the orders of Hon'ble Supreme Court for re-verification activity and shall upload the complete details of this activity on their website.

5. All Licensees shall device mechanisms to avoid public inconvenience as well as long public queues. For this, the Licensees shall use/share common device eco-system through mutual agreements between them.

6. For re-verification through Aadhaar based E-KYC process, the Licensee shall send a 'Verification Code' to the mobile number of the subscriber. Before initiating the E-KYC process, the Licensee shall verify the 'Verification Code' from the subscriber so as to confirm that the SIM card of mobile connection is physically available with the subscriber. Only after this activity, the Licensee shall proceed for E-KYC process. After completion of E-KYC process, before updating or overwriting the old subscriber detail in database with data received through E-KYC process, the Licensee shall seek confirmation from subscriber about the re-verification of his/her mobile number after 24 Hours through SMS. If the subscriber does not respond within 3 daylight hours to SMS, the Licensee shall treat re-verification as positive and overwrite the subscriber database by E-KYC process data. A sample Customer Application Form (CAF) for re-verification is annexed as Annexure-I.

7. The Licensee may also re-verify more than one mobile connection issued by it in one Licensed Service Area to a subscriber (not bulk connections) through a single E-KYC process as mentioned above. The mobile number of each connection shall be mentioned clearly at the top of CAF below 'Type of Connection' as mentioned in sample CAF annexed at Annexure-I. However, to check the physical possession of all such connection by the subscriber, 'verification code' shall be verified on each mobile connection separately and confirmation through SMS post E-KYC process shall be sought from the subscriber for each mobile connection separately.

8. The mobile connections which are used for data services only by the subscriber i.e., on which facility of incoming calls/SMS are not available, physical possession of SIM card of such connections by the subscriber shall be verified through sending 'verification code' on alternate mobile number submitted by the subscriber (while issuing the connection initially), before following E-KYC process.

9. Once a subscriber is re-verified and the details in subscriber base are updated successfully as per the E-KYC process, the Licensee can destroy the old CAFs of such re-verified subscriber unless the Licensee is directed to preserve the same by the Licensor or Law Enforcement Agencies or Judicial forums.

10. For issuing additional mobile connection to a re-verified subscriber, the Licensee shall follow separate E-KYC process. However, verification of a subscriber is not required in prepaid to postpaid conversion or vice-versa.

11. In partial modification of instructions issued for Aadhaar based E-KYC process vide letter no. 800-29/2010-VAS dated 16.08.2016, the additional verification by the employee of the Licensee before activation of the mobile connection, is not required.

12. The Licensee shall submit the subscriber database of re-verified subscribers through E-KYC process weekly to the concerned TERM Cell and such subscriber shall be flagged as "re-verified" in the monthly subscriber database submitted to TERM Cells. In addition to this, the Licensee shall also submit the LSA-wise details regarding number of total subscriber and number of re-verified subscribers to the undersigned (on e-mail id: adetas2.hq-dot@nic.in) weekly.

13. No penalty shall be imposed by TERM Cells for change in subscriber details viz. name, address, etc., of a mobile connection on account of above mentioned re-verification activity.

14 The instructions for use of E-KYC process in case of outstation customers and bulk connections shall be issued separately.

15. The Licensee shall follow the above instructions strictly and should complete the re-verification exercise of existing subscribers before 06.02.2018.

16. The subscriber acquired through Proof of Identity/Proof of Address (PoI/PoA) documents based process during the period of this re-verification activity shall also be re-verified though E-KYC process. For this, the Licensee, at the time of issuing connection to such subscribers, shall intimate the subscribers about this re-verification activity.

23/03/17

(Prashant Verma)
ADG (AS-II)
Tele No.: 23354042/23036580

Copy to:

1. Home Secretary, Ministry of Home Affairs, New Delhi.
2. Secretary, TRAI, New Delhi.
3. DG, UIDAI, New Delhi.
4. JS, PMO, South Block, New Delhi.
5. Sr. DDG (TERM), DoT HQ.
6. All DDsG TERM Cells.
7. All Directors in AS Cell.
8. COAI/AUSPI.

Annexure-I

DRAFT 742

APPLICATION FORM FOR RE-VERIFIED MOBILE CONNECTION USING e-KYC PROCESS

Unique Customer Application Form (CAF) No* - _____
Aadhaar Number of Customer* (As received from UIDAI):_____
Type of Connection*: Post-Paid/ Pre-Paid
Existing Mobile Number (s):

Passport size Photograph (As received from UIDAI)

1. Name of the Subscriber*_____
(As received from UIDAI)

2A: Unique e-KYC response code (authorization) along with date & time stamp received from UIDAI in respect of customer*

Unique response code*: _____ Date* : _____Time* :_____

1B: Unique acknowledgement receipt number given by Licensee to customer (To be populated by Licensee)*:_____

2. Name of Father/Husband*_____

3. Gender*: Male/Female
(As received from UIDAI)

4. Date of Birth* DD/MM/YYYY)
(As received from UIDAI)

5. Complete Local Residential Address* (As received from UIDAI):

(C/o)/(D/o)/(S/o)/(W/o)/(H/o)_____

House No/Flat No_____ Street
Address/Village_____
Locality/ Tehsil _____
City/ District_____ State/UT _____

Pin Code -

6. Complete permanent residential Address of subscriber:
House No/Flat No _____ Street
Address/Village_____
Locality/ Tehsil _____
City/ District _____ State/UT _____

Pin Code -

7 Status of Subscriber*:- Individual /Corporate

8. Nationality*_____

9. ~~Photo ID Proof type (Driving Licence/ Voter ID Card/ Other (specify):~~(Deleted)

10. ~~Address proof document type (Driving Licence/ Other (specify):~~(Deleted)

11. Number of Mobile connections held in name of Applicant (Operator-wise)* -_____

~~12. Tariff Plan Applied*_____ 13. Value Added Services Applied(if any)_____~~

14. E-mail address (if any): _____@_____

15. Alternate Contact numbers, if any: Home: _____Business_____Mobile_____

16. Profession of Subscriber : _____ 17. PAN/GIR:_____

18. ~~Details (Name, Address and phone number) of Local reference~~ (Deleted)

~~19. To be filled in cases of Mobile Number Portability (MNP) -~~
~~(A) UPC_____ (B) Previous Service Provider & Licensed Service Area Details:_____~~

~~20. To be filled in cases of Post paid connections -~~
~~(A) Form of Payment - Cash ☐ Cheque ☐ credit card ☐ Debit card ☐~~
~~(B) If payment made by cash/cheque/credit card/debit card~~
~~(a) Bank A/c No._____(b) Bank Name_____~~
~~(c) Branch Name & Address_____~~

Declaration by subscriber

(A) The information provided by me & the data received from UIDAI in my respect is correct.

(B) This biometricauthentication can be treated as my signature.

(C) I am the existing user of mobile number(s) ..... and the SIM card(s) of these mobile number(s) is/are under my possession.

Unique response code* (declaration): _____ Date* : _____Time* :_____

Fields to be filled by Service Provider/Authorized representative

21. IMSI No.* - _____ 22. Existing Mobile Number *- _____

23. Point of sale code* - _____ (To be populated by Licensee)

23A. Point of Sale Name *: _____ (To be populated by Licensee)

24. Point of sale agent name (As received from UIDAI)* _____

24A: Point of sale agent Aadhaar Number* (As received from UIDAI): _____

24B: Unique e-KYC response code along with date & time stamp received from UIDAI in respect of POS agent*

Unique response code*: _____ Date* : _____ Time* : _____

25. Complete Address of Point of Sale* (To be populated by Licensee):

House No/Flat No* _____ Street
Address/Village_____

Locality/ Tehsil* _____

City/ District* _____ State/UT * _____

Pin Code* - | | | | | | |

~~26. Name of local reference contacted by PoS at time of Sale~~(Deleted)

Fields to be filled by Service Providers before SIM activation

~~27. Name of local reference contacted at time of activation~~(Deleted)

~~28. Name & designation of the Employee of the Licensee activating the SIM on behalf of the licensee*~~ _____

~~29. Details of Add on/Value Added facilities (like Internet, 3G, Call transfer facility, ISD facility, GPRS, navigation, Tariff plan etc.) activated on the SIM Card~~ _____

~~**Signature of Employee of Licensee who is activating the SIM***~~**(Deleted)**

~~Date& Time *~~

***Mandatory fields**

ANNEXURE-R1
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(2017) 7 Supreme Court Cases 59

(BEFORE DR A.K. SIKRI AND ASHOK BHUSHAN, JJ.)

BINOY VISWAM .. Petitioner;

Versus

UNION OF INDIA AND OTHERS .. Respondents.

Writ Petitions (C) No. 247 of 2017† with Nos. 277 and 304 of 2017, decided on June 9, 2017

A. Income Tax Act, 1961 — S. 139-AA — Mandatory seeding of Aadhaar numbers in PAN database — Obligation of all assessees to provide Aadhaar number or enrolment ID of Aadhaar application form while applying for PAN or while filing income tax return — Held, does not violate Arts. 14 or 19(1)(g) of the Constitution — However, validity of S. 139-AA r/w Aadhaar Act vis-à-vis various aspects of right to privacy/Art. 21 of the Constitution would still have to be tested before Constitution Bench before whom related issues are already pending — Moreover, penal consequences under S. 139-AA(2) proviso i.e. deletion of PAN in case of non-linking of Aadhaar, held, cannot be applied retrospectively to existing PAN card holders — S. 139-AA(2) proviso read down to mean that it would operate prospectively — PAN card of assessees who are not Aadhaar card holders not to be treated as invalid for time being — This is to enable them to facilitate transactions which fall within ambit of R. 114-B, Income Tax Rules, 1962 — Requirements of S. 139-AA would be applicable to new applications for PAN card and those who had already enrolled in Aadhaar — Furthermore, pending adjudication of privacy/Art. 21 of the Constitution issues by the Constitution Bench, penal provisions under S. 139-AA(2) proviso partially stayed — In the interregnum, Parliament given liberty to consider whether there is a need to tone down S. 139-AA(2) proviso

— Held, it cannot be said that S. 139-AA has no rational nexus with object sought to be achieved — Main purpose of S. 139-AA is to unearth black money and check money laundering — S. 139-AA cannot be denounced only on ground that said purpose cannot be fully achieved — Even solitary purpose of de-duplication of PAN cards is sufficient to meet second test of Art. 14 — Submission that percentage of persons found with duplicate PAN cards is only 0.4% and thus there is no need to have S. 139-AA, not tenable — Absolute number of duplicate PAN cards as per figures is 10.52 lakhs which is sufficient to harm the economy and adversely affect the nation

— Submission that S. 139-AA discriminates against the class which did not want to volunteer vis-à-vis the class which volunteered to enrol themselves under Aadhaar, held, not tenable — Plea of discrimination can be raised by showing that impugned law can creates two classes without any reasonable classification and treats them differently — What Art. 14 prohibits is class legislation and not reasonable classification for purpose of legislation —

† Under Article 32 of the Constitution of India

All income tax assessees constitute one class and they are treated alike by impugned provision — Therefore, argument based on Art. 14, rejected — Income Tax Rules, 1962 — R. 114-B — Constitution of India, Art. 14

B. Income Tax Act, 1961 — S. 139-AA — Mandatory seeding of Aadhaar numbers in PAN database, under — Obligation of all assessees to provide Aadhaar number or Enrolment ID of Aadhaar application form while applying for PAN or while filing return — If restricts the right under Art. 19(1)(g) beyond the extent permitted by Art. 19(6) as PAN is required for many financial and business transactions, and if PAN is withdrawn it will affect right to do business under Art. 19(1)(g) — Held, S. 139-AA does not violate Art. 19(1)(g) and amounts to a proportionate and reasonable restriction under Art. 19(6) of the Constitution [Ed.: but see also Shortnote A re pending right to privacy/Art. 21 of the Constitution adjudication]

— Objectives of Aadhaar, and in the process, that of S. 139-AA, examined — Government should solve problem of duplicate beneficiaries under social welfare schemes — Government should also solve the problem of corruption, black money, money laundering and tax evasion — All this can be possible if one uniform identity, namely, UID/Aadhaar is adopted (as per Aadhaar Act) and if seeding of Aadhaar database with PAN is made as per S. 139-AA, Income Tax Act, 1961 — Seeding of Aadhaar with PAN is considered as the only robust method of de-duplication of PAN database — Seeding of PAN with Aadhaar will prevent use of wrong PAN for high value transactions — Aadhaar database would also help law enforcement agencies in matters of crime and terrorism — Aadhaar and PAN linking necessary for international obligations and agreements like: (a) Improving International Tax Compliance and implementing the Foreign Account Tax Compliance Act (FATCA) and (b) Convention on Mutual Administrative Assistance in Tax Matters under the Common Reporting Scheme (CRS) — In case information about PAN is incorrect or fictitious, it will create major embarrassment for the country — That is why S. 139-AA provided for linking Aadhaar with PAN, and is a reasonable and proportionate restriction under Art. 19(6)

— Furthermore, challenge to penal provision under S. 139-AA(2) proviso, not tenable — It is prerogative of legislature to make penal provision — There has to be some penal consequence for non-compliance with Ss. 139-AA(1) & (2) — That is because penal provision under S. 139-AA(2) proviso is directly connected with issue of fake PAN cards and further because S. 139-AA(2) is not violative of Arts. 14 and 19 — It is another matter that its retrospective operation has been read down — Constitution of India, Arts. 19(1)(g) & (6)

C. Constitution of India — Art. 21 — Whether right to privacy is breached by Aadhaar Scheme would be decided by Constitution Bench — Whether enrolment under Aadhaar is mandatory is also pending before Constitution Bench, though as per the Government, requirement of Aadhaar for social

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benefits is optional — Parties given liberty to raise other issues before Constitution Bench which touched upon issue of right to privacy and Art. 21 — Such issues included issue relating to human dignity, right to informational self-determination and right to be let alone — Clarified that these are all shades of right to privacy under Art. 21 — Keeping in mind principle of judicial discipline, said issues kept open, to be raised before Constitution Bench

D. Information Technology, Internet, Computer and Cyber Laws — Information Technology Act, 2000 — S. 7 — Security of electronic records (if any law provides for same) — Aadhaar Act providing for security of biometric information deemed to be "electronic record" and "sensitive personal data or information" under Information Technology Act, 2000 — Apprehension of leak of biometric information collected under Aadhaar Scheme — Directions issued to Government to address said issue — As per objectives of Aadhaar Act, information in Aadhaar database should be secured and protected

— Human and Civil Rights — Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 — Ss. 2(a), 2(c), 2(d), 2(e), 2(g), 2(h), 2(k), 2(l), 2(m), 2(n), SOR and Ss. 3, 7 and 28 to 30

E. Statute Law — Validity of a Statute or Statutory Provision/Judicial review — Judicial review of legislation — Principles summarised

— Court cannot question wisdom of legislature in enacting a legislation — Judicial review of an administrative act is different from review of legislative enactment — Limited grounds on which Court can strike down a law, stated — Court can strike down a law if it is beyond legislative competence, or if it contravenes fundamental rights or other constitutional rights/provisions

F. Statute Law — Validity of a Statute or Statutory Provision/Judicial review — Reading down a statutory provision — Principles summarised

G. Constitution of India — Art. 245 — Validity of legislation — Cannot be challenged on concept of "limited Government" if challenge is beyond settled grounds on which legislation may be challenged

— Plea that collection of biometric data (as under Aadhaar Scheme) puts State in an extremely dominant position in relation to individual whereby the State can even put individual in surveillance, is not tenable — Unless the petitioner demonstrates that Parliament has exceeded its power prescribed under Constitution or the impugned provision violates any provision of the Constitution, plea based on concept of limited Government cannot succeed

H. Constitution of India — Art. 19 — Rights and restrictions — Doctrine of proportionality, re-explained — A sub-constitutional law (statute) imposing restrictions on constitutional rights — Can be treated as proportional if it is meant to achieve a proper purpose and if measures taken to achieve such purpose are rationally connected with such purpose and such measures are necessary

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Held :

Rational nexus test — Section 139-AA of the Income Tax Act not violative of Article 14 of the Constitution

The varying needs of different classes or sections of people require differential and separate treatment. The legislature is required to deal with diverse problems arising out of an infinite variety of human relations. It must, therefore, necessarily have the power of making laws to attain particular objects and, for that purpose, of distinguishing, selecting and classifying persons and things upon which its laws are to operate. The principle of equality of law, thus, means not that the same law should apply to everyone but that a law should deal alike with all in one class; that there should be an equality of treatment under equal circumstances. It means that equals should not be treated unlike and unlikes should not be treated alike. Likes should be treated alike. (Para 101)

Srinivasa Theatre v. *State of T.N.*, (1992) 2 SCC 643; *Charanjit Lal Chowdhury* v. *Union of India*, AIR 1951 SC 41 : 1950 SCR 869, *relied on*

What follows is that Article 14 forbids class legislation; it does not forbid reasonable classification of persons, objects and transactions by the legislature for the purpose of achieving specific ends. Classification to be reasonable should fulfil the following two tests: It should not be arbitrary, artificial or evasive. It should be based on an intelligible differentia, some real and substantial distinction, which distinguishes persons or things grouped together in the class from others left out of it. The differentia adopted as the basis of classification must have a rational or reasonable nexus with the object sought to be achieved by the statute in question. (Para 102)

Thus, Article 14 in its ambit and sweep involves two facets viz. it permits reasonable classification which is founded on intelligible differentia and accommodates the practical needs of the society and the differentia must have a rational relation to the objects sought to be achieved. Further, it does not allow any kind of arbitrariness and ensures fairness and equality of treatment. It is the *fons juris* of the Constitution, the fountainhead of justice. Differential treatment does not per se amount to violation of Article 14 of the Constitution and it violates Article 14 only when there is no reasonable basis and there are several tests to decide whether a classification is reasonable or not and one of the tests will be as to whether it is conducive to the functioning of modern society. (Para 103)

Section 139-AA of the Act is not discriminatory nor does it offend the equality clause enshrined in Article 14 of the Constitution. (Para 136.3)

The petitioners conceded that first test of reasonable classification had been satisfied as individual assessees form a separate class and the impugned provision which targeted only individual assessees would not be discriminatory on this ground. The whole emphasis was that Section 139-AA did not satisfy the second limb of the twin tests of classification under Article 14, as this provision had no rational nexus with the object sought to be achieved. In this behalf, the submission was that if the purpose of the provision was to curb circulation of black money, such an object was not achievable by seeding PAN with Aadhaar inasmuch as Aadhaar is only for individuals. This submission is rejected. (Para 104)

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Unearthing black money or checking money laundering is to be achieved to whatever extent possible. Various measures can be taken in this behalf. If one of the measures is introduction of Aadhaar into the tax regime, it cannot be denounced only because of the reason that the purpose would not be achieved fully. Such kind of menace, which is deep-rooted, needs to be tackled by taking multiple actions and those actions may be initiated at the same time. It is the combined effect of these actions which may yield results and each individual action considered in isolation may not be sufficient. Therefore, rationality of a particular measure cannot be challenged on the ground that it has no nexus with the objective to be achieved. Of course, there is a definite objective. For this purpose alone, individual measure cannot be ridiculed. (Para 105)

The recommendations of SIT on black money headed by Justice M.B. Shah and the measures suggested by the Committee headed by Chairman, CBDT on "Measures to Tackle Black Money in India and Abroad" have been noted. They have, in no uncertain terms, suggested that one singular proof of identity of a person for entering into finance/business transactions, etc. may go a long way in curbing this foul practice. That apart, even if solitary purpose of de-duplication of PAN cards is taken into consideration, that may be sufficient to meet the second test of Article 14 of the requirement of a rational nexus between the classification and the object of the classification. It has come on record that 11.35 lakh cases of duplicate PAN or fraudulent PAN cards have already been detected and out of this 10.52 lakh cases pertain to individual assessees. Seeding of Aadhaar with PAN has certain benefits which have already been enumerated. Furthermore, even when the issue of shell companies is addressed, fact remains that companies are after all floated by individuals and these individuals have to produce documents to show their identity. It was sought to be argued that persons found with duplicate/bogus PAN cards are hardly 0.4% and, therefore, there was no need to have such a provision. The Court cannot go by percentage figures only. The absolute number of such cases is 10.52 lakhs, which figure, by no means, can be termed as miniscule, to harm the economy and create adverse effect on the nation. The State has argued that Aadhaar will ensure that there is no duplication of identity as biometrics will not allow that and, therefore, it may check the growth of shell companies as well. (Para 105)

Having regard to the aforesaid factors, it cannot be said that there is no nexus with the objective sought to be achieved. Hence Section 139-AA of the IT Act does not violate Article 14 of the Constitution. (Para 106)

Ram Krishna Dalmia v. S.R. Tendolkar, 1959 SCR 279 : AIR 1958 SC 538; *Modern Dental College and Research Centre v. State of M.P.*, (2016) 7 SCC 353 : 7 SCEC 1; *Nagpur Improvement Trust v. Vithal Rao*, (1973) 1 SCC 500; *Subramanian Swamy v. CBI*, (2014) 8 SCC 682 : (2014) 6 SCC (Cri) 42 : (2014) 3 SCC (L&S) 36, *referred to*

Section 139-AA does not discriminate against the class which did not want to volunteer vis-à-vis class which volunteered to enrol themselves under Aadhaar

Another argument predicated on Article 14 advanced by the petitioner was that it was discriminatory in nature as it created two classes: one class of those who volunteered to enrol themselves under Aadhaar Scheme and other class of those who did not want it to be so. It was further submitted that in this manner this provision had the effect of creating an artificial class of those who object to Aadhaar Scheme as self-conscious persons. This is a fallacious argument. (Para 107)

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Validity of a legislative Act cannot be challenged by creating artificial classes by those who are objecting to the said provision and predicating the argument of discrimination on that basis. When a law is made, all those who are covered by that law are supposed to follow the same. No doubt, it is the right of a citizen to approach the court and question the constitutional validity of a particular law enacted by the legislature. However, merely because a section of persons opposes the law, would not mean that it has become a separate class by itself. Two classes, cannot be created on this basis, namely, one of those who want to be covered by the scheme, and others who do not want to be covered thereby. If such a proposition is accepted, every legislation would be prone to challenge on the ground of discrimination. As far as plea of discrimination is concerned, it has to be raised by showing that the impugned law creates two classes without any reasonable classification and treats them differently. (Para 108)

The principle of equality does not mean that every law must have universal application for all persons who are not by nature, attainment or circumstances, in the same position, as the varying needs of different classes of persons often require separate treatment. It is permissible for the State to classify persons for legitimate purposes. The legislature is also competent to exercise its discretion and make classification. In the present scenario the impugned legislation has created two classes i.e. one class of those persons who are assessees and other class of those persons who are income tax assessees. It is because of the reason that the impugned provision is applicable only to those who are filing income tax returns. Therefore, the only question would be as to whether this classification is reasonable or not. There cannot be any dispute that there is a reasonable basis for differentiation and, therefore, equal protection clause enshrined in Article 14 is not attracted. What Article 14 prohibits is class legislation and not reasonable classification for the purpose of legislation. All income tax assessees constitute one class and they are treated alike by the impugned provision. (Para 109)

Hence, the argument founded on Article 14 of the Constitution is rejected. (Para 111)

E.P. Royappa v. *State of T.N.*, (1974) 4 SCC 3 : 1974 SCC (L&S) 165, *considered*

Section 139-AA of the IT Act does not violate Article 19(1)(g) of the Constitution

Insofar as the first limb of Section 139-AA of the Act is concerned, it has already been held that it is within the competence of Parliament to make a provision of this nature and further that it is not offensive of Article 14 of the Constitution. This requirement, per se, does not fall afoul Article 19(1)(*g*) of the Constitution either, inasmuch as, quoting the Aadhaar number for purposes mentioned in sub-section (1) of Section 139-AA or intimating the Aadhaar number to the prescribed authority as per the requirement of sub-section (2) of Section 139-AA does not, by itself, impinge upon the right to carry on profession or trade, etc. Therefore, it is not violative of Article 19(1)(*g*) of the Constitution either. In fact, that is not even the argument of the petitioners. (Paras 120 and 136.4)

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PAN is required for many financial and business transactions — Thus if PAN is withdrawn it will affect right to do business under Article 19(1)(g) — Restriction is reasonable and proportionate to meet requirement of Article 19(6) of the Constitution

In this context, when "balancing" is to be done, the doctrine of proportionality can be applied, which was explained in *Modern Dental College and Research Centre*, (2016) 7 SCC 353, in the following manner: It is now almost accepted that there are no absolute constitutional rights and all such rights are related. Thus, the requirement of proportional limitations of constitutional rights by a sub-constitutional law i.e. the statute, is derived from an interpretation of the notion of democracy itself. This phenomenon—of both the right and its limitation in the Constitution—exemplifies the inherent tension between democracy's two fundamental elements. On the one hand is the right's element, which constitutes a fundamental component of substantive democracy; on the other hand is the people element, limiting those very rights through their representatives. These two constitute a fundamental component of the notion of democracy, though this time in its formal aspect. How can this tension be resolved? Indeed, the inherent tension between democracy's different facets is a "*constructive tension*". This tension between the two fundamental aspects—rights on the one hand and its limitation on the other hand—is to be resolved by balancing the two so that they harmoniously coexist with each other. This balancing is to be done keeping in mind the relative social values of each competitive aspects when considered in proper context. In this direction, the next question that arises is as to what criteria is to be adopted for a proper balance between the two facets viz. the rights and limitations imposed upon it by a statute. Here comes the concept of "*proportionality*", which is a proper criterion. To put it pithily, when a law limits a constitutional right, such a limitation is constitutional if it is proportional. The law imposing restrictions will be treated as proportional if it is meant to achieve a proper purpose, and if the measures taken to achieve such a purpose are rationally connected to the purpose, and such measures are necessary. (Para 122)

Modern Dental College and Research Centre v. *State of M.P.*, (2016) 7 SCC 353 : 7 SCEC 1, *relied on*

Gobind v. *State of M.P.*, (1975) 2 SCC 148 : 1975 SCC (Cri) 468, *referred to*

R. v. *Oakes*, (1986) 1 SCR 103 (Can SC); *P.P. Enterprises* v. *Union of India*, (1982) 2 SCC 33 : 1982 SCC (Cri) 341; *M.R.F. Ltd* v. *State of Kerala*, (1998) 8 SCC 227 : 1999 SCC (L&S) 1, *cited*

Entire emphasis of the petitioners' submissions, while addressing the arguments predicated on Article 19(1)(*g*) of the Constitution, is on the consequences that ensue in terms of Section 139-AA(2) proviso of the Income Tax Act inasmuch as it is argued that the consequences provided will have the effect of paralysing the right to carry on business/profession. (Para 120)

At the outset, it may be mentioned that though PAN is issued under the provisions of the Act (Section 139-A), its function is not limited to giving this number in the income tax returns or for other acts to be performed under the Act, as mentioned in Sections 139-A(5), (5-A), (5-B), (5-C), (5-D) and (6). Rule 114-B of the Rules mandates quoting of this PAN in various other documents pertaining to different kinds of transactions listed therein. It is for sale and purchase of immovable property valued at Rs 5 lakhs or more; sale or purchase of motor vehicle,

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etc., while opening deposit account with a sum exceeding Rs 50,000 with a banking company; while making deposit of more than Rs 50,000 in any account with post office, savings bank; a contract of a value exceeding Rs 1 lakh for sale or purchase of securities as defined under the Securities Contracts (Regulation) Act, 1956; while opening an account with a banking company; making an application for installation of a telephone connection; making payment to hotels and restaurants when such payment exceeds Rs 25,000 at any one time; while purchasing bank drafts or pay orders for an amount aggregating Rs 50,000 or more during any one day, when payment is in cash; payment in cash in connection with travel to any foreign country of an amount exceeding Rs 25,000 at any one time; while making payment of an amount of Rs 50,000 or more to a mutual fund for purchase of its units or for acquiring shares or debentures/bonds in a company or bonds issued by Reserve Bank of India; or when the transaction of purchase of bullion or jewellery is made by making payment in cash to a dealer above a specified amount, etc. This shows that for doing many activities of day-to-day nature, including in the course of business, PAN is to be given. Pithily put, in the absence of PAN, it will not be possible to undertake any of the aforesaid activities though this requirement is aimed at curbing the tax evasion. Thus, if the PAN of a person is withdrawn or is nullified, it definitely amounts to placing restrictions on the right to do business as a business under Article 19(1)(*g*) of the Act. (Para 121)

Significant economic growth in India

India has achieved significant economic growth since Independence. In particular, rapid economic growth has been achieved in the last 25 years, after the country adopted the policy of liberalisation and entered the era of, what is known as, globalisation. Economic growth in the last decade has been phenomenal and for many years, the Indian economy grew at highest rate in the world. (Para 125)

Duty of Government

It is in this context that not only sustainable development is needed which takes care of integrating growth and development, thereby ensuring that the benefit of economic growth is reaped by every citizen of this country, it also becomes the duty of the Government in a welfare State to come out with various welfare schemes which not only take care of immediate needs of the deprived class but also ensure that adequate opportunities are provided to such persons to enable them to make their lives better, economically as well as socially. In the first instance, as a welfare and democratic State, it becomes the duty of any responsible Government to come out with welfare schemes for the upliftment of poverty-stricken and marginalised sections of the society. This is even the ethos of Indian Constitution which casts a duty on the State, in the form of "directive principles of State policy", to take adequate and effective steps for betterment of such underprivileged classes. State is bound to take adequate measures to provide education, health care, employment and even cultural opportunities and social standing to these deprived and underprivileged classes. (Para 125)

Government spending huge amounts for welfare measures but benefits not reaching poor

It is not that Government has not taken steps in this direction from time to time. Various welfare schemes are, in fact, devised and floated from time to time by the

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Government, keeping aside substantial amount of money earmarked for spending on socially and economically backward classes. At the same time, however, harsh reality is that benefits of these schemes have not reached those persons for whom that are actually meant. At the same time, it is also a fact that in spite of significant political and economic success which has proved to be sound and sustainable, for various reasons including corruption, the benefits thereof have not percolated down to the poor and the poorest. In fact, such benefits are reaped primarily by rich and upper middle classes, resulting into widening the gap between the rich and the poor. A former Prime Minister of this country has gone on record to say that out of one rupee spent by the Government for welfare of the downtrodden, only 15 paisa thereof actually reaches those persons for whom it is meant. (Para 125)

An Uncertain Glory . India and its Contradictions, referred to

Reasons why welfare measures not reaching persons intended

One of the main reasons is failure to identify these persons for lack of means by which identity could be established of such genuine needy class. Resultantly, lots of ghosts and duplicate beneficiaries are able to take undue and impermissible benefits. (Para 125.1.3)

In the Statement of Objects and Reasons of the Aadhaar Act, it is inter alia mentioned that though number of social benefits schemes have been floated by the Government, the failure to establish identity of an individual has proved to be a major hindrance for successful implementation of those programmes as it was becoming difficult to ensure that subsidies, benefits and services reach the unintended beneficiaries in the absence of a credible system to authenticate identity of beneficiaries. (Para 19)

Objectives of Aadhaar, and in the process, that of Section 139-AA of the IT Act

It cannot be doubted that with UID/Aadhaar much of the malaise in this field can be taken care of. By making use of the technology, a method is sought to be devised, in the form of Aadhaar, whereby identity of a person is ascertained in a flawless manner without giving any leeway to any individual to resort to dubious practices of showing multiple identities or fictitious identities. That is why it is given the nomenclature "unique identity". It is aimed at securing advantages on different levels some of which are described, in brief, below: (Para 125)

Aadhaar or UID, which has come to be known as the most advanced and sophisticated infrastructure, may facilitate law-enforcement agencies to take care of problem of terrorism to some extent and may also be helpful in checking the crime and also help investigating agencies in cracking the crimes. No doubt, going by the aforesaid, and may be some other similarly valid considerations, it is the intention of the Government to give fillip to Aadhaar movement and encourage the people of this country to enrol themselves under the Aadhaar Scheme. (Para 125.3)

Menace of corruption and black money has reached alarming proportion in this country. It is eating into the economic progress which the country is otherwise achieving. It is not necessary to go into the various reasons for this menace. However, it would be pertinent to comment that even as per the observations of the Special Investigation Team (SIT) on black money headed by Justice M.B. Shah, one of the reasons is that persons have the option to quote their PAN or UID or

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passport number or driving licence or any other proof of identity while entering into financial/business transactions. Because of this multiple methods of giving proofs of identity, there is no mechanism/system at present to collect the data available with each of the independent proofs of ID. For this reason, even SIT suggested that these databases be interconnected. To the same effect is the recommendation of the Committee headed by Chairman, CBDT on measures to tackle black money in India and abroad which also discusses the problem of money laundering being done to evade taxes under the garb of shell companies by the persons who hold multiple bogus PAN numbers under different names or variations of their names. That can be possible if one uniform proof of identity, namely, UID is adopted. It may go a long way to check and minimise the said malaise. (Para 125.2)

Whether such a scheme should remain voluntary or it can be made mandatory imposing compulsiveness on the people to be covered by Aadhaar is a different question which issue is pending before the Constitution Bench. At this juncture, it is only emphasised that mala fides cannot be attributed to this scheme. In any case, the Court is concerned with the vires of Section 139-AA of the Income Tax Act, 1961 which is a statutory provision. The Supreme Court is, thus, dealing with the aspect of judicial review of legislation. Insofar as Section 139-AA is concerned, the explanation of the State is that the primary purpose of introducing this provision was to take care of the problem of multiple PAN cards obtained in fictitious names. Such multiple cards in fictitious names are obtained with the motive of indulging into money laundering, tax evasion, creation and channelising of black money. It is mentioned that in de-duplication exercises, 11.35 lakh cases of duplicate PANs/ fraudulent PANs have been detected. Out of these, around 10.52 lakhs pertain to the individual assessees. Parliament in its wisdom thought that one PAN to one person can be ensured by adopting Aadhaar for allotment of PAN to individuals. As of today, that is the only method available i.e. by seeding of existing PAN with Aadhaar. It is perceived as the best method, and the only robust method of de-duplication of PAN database. It is claimed by the State that the instance of duplicate Aadhaar is almost non-existent. It is also claimed that seeding of PAN with Aadhaar may contribute to widening of the tax case as well, by checking the tax evasions and bringing into tax hold those persons who are liable to pay tax but deliberately avoid doing so. (Para 126)

People's Union for Civil Liberties v. *Union of India*, (2011) 14 SCC 331; *State of Kerala* v. *Parent Teachers Assn. SVVUP School*, (2013) 2 SCC 705 : (2013) 2 SCC (Cri) 858 : (2013) 2 SCC (L&S) 444 : 4 SCEC 847; *People's Union for Civil Liberties (PDS Matters)* v. *Union of India*, (2013) 14 SCC 368; *People's Union for Civil Liberties* v. *Union of India*, (2010) 5 SCC 318; *Lokniti Foundation* v. *Union of India*, (2017) 7 SCC 155, *referred to*

Observations of the Comptroller and Auditor General and Finance Minister

It would be apposite to quote the discussion by the Comptroller and Auditor General in his report for the year 2011: The gap may be due to issuance of duplicate PAN cards and death of some PAN card holders. The Department needs to put in place appropriate controls to weed out the duplicate PANs and also update the position in respect of deceased assessee. It is significant to note that the number of PAN card holders has increased by 117.7 per cent between 2005-06 to 2009-10 whereas the number of returns filed in the same period has increased by 14.4 per cent only. Likewise, the Finance Minister in his Budget speech in February 2013

described the extent of tax evasion and offering lesser income tax than what is actually due thereby labelling India as tax non-compliant. (Paras 127 and 128)

Aadhaar and PAN linking necessary for international obligations and agreements

The State has also claimed that linking of Aadhaar with PAN is consistent with India's international obligations and goals. In this behalf, it is pointed out that India has signed the Inter-Governmental Agreement (IGA) with USA on 9-7-2015, for Improving International Tax Compliance and implementing the Foreign Account Tax Compliance Act (FATCA). India has also signed a multilateral agreement on 3-6-2015, to automatically exchange information based on Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters under the Common Reporting Scheme (CRS), formally referred to as the Standard for Automatic Exchange of Financial Account Information (AEoI). As part of India's commitment under FATCA and CRS, financial sector entities capture the details about the customers using the PAN. In case the PAN or submitted details are found to be incorrect or fictitious, it will create major embarrassment for the country. Under Non-filers Monitoring System (NMS), the Income Tax Department identifies non-filers with potential tax liabilities. Data analysis is carried out to identify non-filers about whom specific information was available in AIR, CIB data and TDS/TCS returns. Email/SMS and letters are sent to the identified non-filers communicating the information summary and seeking to know the submission details of income tax return. In a large number of cases (more than 10 lakh PANs every year) it is seen that the PAN holder neither submits the response and in many cases the letters are return unserved. Field verification by field formations have found that in a large number of cases, the PAN holder is untraceable. In many cases, the PAN holder mentions that the transaction does not relate to them. There is a need to strengthen PAN by linking it with Aadhaar/biometric information to prevent use of wrong PAN for high value transactions. (Para 129)

It is prerogative of legislature to make penal provision

Thus one has to keep in mind the aforesaid purpose of the impugned provision and what it seeks to achieve. The provision is aimed at seeding Aadhaar with PAN. It has already been held that Section 139-AA of the IT Act is based on reasonable classification and that has a nexus with the objective sought to be achieved. One of the main objectives is to de-duplicate PAN cards and to bring a situation where one person is not having more than one PAN card or a person is not able to get PAN cards in assumed/fictitious names. In such a scenario, if those persons who violate Section 139-AA of the Act without any consequence, the provision shall be rendered toothless. It is the prerogative of the legislature to make penal provisions for violation of any law made by it. In the instant case, requirement of giving Aadhaar enrolment number to the designated authority or stating this number in the income tax returns is directly connected with the issue of duplicate/fake PANs. (Para 130)

Jindal Stainless Ltd. v. *State of Haryana*, (2017) 12 SCC 1, *relied on*

Atiabari Tea Co. Ltd. v. *State of Assam*, AIR 1961 SC 232, *M'Culloch* v. *Maryland*, 4 L Ed 579 : 17 US 316 (1819), *State of Madras* v. *N.K. Nataraja Mudaliar*, AIR 1969 SC 147, *cited*

Therefore, it cannot be denied that there has to be some provision stating the consequences for not complying with the requirements of Section 139-AA of

the Act, more particularly when these requirements are found as not violative of Articles 14 and 19 (of course, eschewing the discussion on Article 21 due to its pendency before the Constitution Bench). If Aadhaar number is not given by the assessee, the aforesaid exercise may not be possible. (Para 132)

Scope of judicial review of legislation

Under the Constitution, the Supreme Court as well as High Courts are vested with the power of judicial review of not only administrative acts of the executive but legislative enactments passed by the legislature as well. This power is given to the High Courts under Article 226 of the Constitution and to the Supreme Court under Article 32 as well as Article 136 of the Constitution. At the same time, the parameters on which the power of judicial review of administrative act is to be undertaken are different from the parameters on which validity of legislative enactment is to be examined. No doubt, in exercises of its power of judicial review of legislative action, the Supreme Court, or for that matter, the High Courts can declare law passed by Parliament or the State Legislature as invalid. However, the power to strike down primary legislation enacted by the Union or the State Legislatures is on limited grounds. Courts can strike down legislation either on the basis that it falls foul of federal distribution of powers or that it contravenes fundamental rights or other constitutional rights/provisions of the Constitution of India. No doubt, since the Supreme Court and the High Courts are treated as the ultimate arbiter in all matters involving interpretation of the Constitution, it is the courts which have the final say on questions relating to rights and whether such a right is violated or not. The basis of the aforesaid statement lies in Article 13(2) of the Constitution which proscribes the State from making "any law which takes away or abridges the right conferred by Part III", enshrining fundamental rights. It categorically states that any law made in contravention thereof, to the extent of the contravention, be void. (Para 76)

A particular law or a provision contained in a statute can be invalidated on two grounds, namely: (*i*) it is not within the competence of the legislature which passed the law, and/or (*ii*) it is in contravention of any of the fundamental rights stipulated in Part III of the Constitution or any other right/provision of the Constitution. Legislation could also be challenged as unreasonable if it violates the principles of equality adumbrated in our Constitution or it unreasonably restricts the fundamental rights under Article 19 of the Constitution. A legislation cannot be challenged simply on the ground of unreasonableness because that by itself does not constitute a ground. The validity of a constitutional amendment and the validity of plenary legislation have to be decided purely as questions of constitutional law. Furthermore, it also needs to be specifically noted that the Supreme Court emphasised that apart from the aforesaid two grounds no third ground is available to invalidate any piece of legislation. (Paras 78 to 80)

Union of India v. *SICOM Ltd.*, (2009) 2 SCC 121; *Ashoka Kumar Thakur* v. *Union of India*, (2008) 6 SCC 1 : 3 SCEC 35; *State of A.P.* v. *McDowell & Co.*, (1996) 3 SCC 709, *relied on*

State of Rajasthan v. *Union of India*, (1977) 3 SCC 592; *Council of Civil Service Unions* v. *Minister for the Civil Service*, 1985 AC 374 : (1984) 3 WLR 1174 : (1984) 3 All ER 935 (HL); *R.* v. *Secy. of State for the Home Deptt., ex p Brind*, (1991) 1 AC 696 : (1991) 2 WLR 588 , (1991) 1 All ER 720 (HL), *cited*

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No enactment can be struck down by just saying that it is arbitrary or unreasonable. An enactment cannot be struck down on the ground that court thinks it unjustified. Parliament and the legislatures, composed as they are of the representatives of the people, are supposed to know and be aware of the needs of the people and what is good and bad for them. The court cannot sit in judgment over their wisdom. Moreover, in the field of taxation, the legislature enjoys a greater latitude for classification. (Para 78)

State of M.P. v. *Rakesh Kohli*, (2012) 6 SCC 312 : (2012) 3 SCC (Civ) 481, *Mohd. Hanif Quareshi* v. *State of Bihar*, AIR 1958 SC 731; *Mahant Moti Das* v. *S.P. Sahi*, AIR 1959 SC 942; *Hamdard Dawakhana* v *Union of India*, AIR 1960 SC 554 : 1960 Cri LJ 735; *Bengal Immunity Co. Ltd.* v. *State of Bihar*, AIR 1955 SC 661; *Charanjit Lal Chowdhury* v. *Union of India*, AIR 1951 SC 41 : 1950 SCR 869; *State of Bombay* v. *F.N. Balsara*, AIR 1951 SC 318 : (1951) 52 Cri LJ 1361, *relied on*

State of Madras v *P.R. Sriramulu*, (1996) 1 SCC 345; *G.C. Kanungo* v *State of Orissa*, (1995) 5 SCC 96, *referred to*

Steelworth Ltd. v. *State of Assam*, 1962 Supp (2) SCR 589; *Gopal Narain* v. *State of U.P.*, AIR 1964 SC 370; *Ganga Sugar Corpn Ltd.* v *State of U.P.*, (1980) 1 SCC 223 , 1980 SCC (Tax) 90; *R.K. Garg* v. *Union of India*, (1981) 4 SCC 675 1982 SCC (Tax) 30; *State of W.B.* v. *E.I.T.A. India Ltd* , (2003) 5 SCC 239, *cited*

Another aspect in this context, which needs to be emphasised, is that a legislation cannot be declared unconstitutional on the ground that it is "arbitrary" inasmuch as examining as to whether a particular Act is arbitrary or not implies a value judgment and the courts do not examine the wisdom of legislative choices and, therefore, cannot undertake this exercise. (Para 81)

Rajbala v. *State of Haryana*, (2016) 2 SCC 445; *K.T. Plantation (P) Ltd.* v. *State of Karnataka*, (2011) 9 SCC 1 : (2011) 4 SCC (Civ) 414, *relied on*

A.S. Krishna v. *State of Madras*, AIR 1957 SC 297 : 1957 Cri LJ 409, *cited*

Reading down impugned provision or striking it down in part or in its entirety

It is, thus, clear that in exercise of power of judicial review, the Indian courts are invested with powers to strike down primary legislation enacted by Parliament or the State Legislatures. However, while undertaking this exercise of judicial review, the same is to be done at three levels. In the first stage, the Court would examine as to whether impugned provision in a legislation is compatible with the fundamental rights or the constitutional provisions (substantive judicial review) or it falls foul of the federal distribution of powers (procedural judicial review). If it is not found to be so, no further exercise is needed as challenge would fail. On the other hand, if it is found that legislature lacks competence as the subject legislated was not within the powers assigned in the List in Schedule VII, no further enquiry is needed and such a law is to be declared as ultra vires the Constitution. However, while undertaking substantive judicial review, if it is found that the impugned provision appears to be violative of fundamental rights or other constitutional rights, the Court reaches the second stage of review. At this second phase of enquiry, the Court is supposed to undertake the exercise as to whether the impugned provision can still be saved by reading it down so as to bring it in conformity with the constitutional provisions. If that is not achievable then the enquiry enters the third stage. If the offending portion of the statute is severable, it is severed and the Court strikes down the impugned provision declaring the same as unconstitutional. (Para 83)

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Plea based on concept of limited Government, not tenable

It was submitted that there are certain things that the State simply cannot do because the action fundamentally alters the relationship between the citizens and the State. In this hue, it was submitted that it was impermissible for the State to undertake the exercise of collection of biometric data, including fingerprints and storing at a central depository as it puts the State in an extremely dominant position in relation to the individual citizens. That it will put the State in a position to target an individual and engage in surveillance thereby depriving or withholding the enjoyment of his rights and entitlements, which is totally impermissible in a country where governance of the State is founded on the concept of "limited Government". Again, this concept of limited Government is woven around Article 21 of the Constitution. (Para 87)

Jindal Stainless Ltd. v. *State of Haryana*, (2017) 12 SCC 1, *relied on*

Synthetics and Chemicals Ltd v. *State of U P*, (1990) 1 SCC 109, *cited*

Undoubtedly, we are in the era of liberalised democracy. In a democratic society governed by the Constitution, there is a strong trend towards the constitutionalisation of democratic polities, where the actions of democratically elected Government are judged in the light of the Constitution. In this context, judiciary assumes the role of protector of the Constitution and democracy, being the ultimate arbiter in all matters involving the interpretation of the Constitution. (Para 88)

Having said so, when it comes to exercising the power of judicial review of a legislation, the scope of such a power has to be kept in mind and the power is to be exercised within the limited sphere assigned to the judiciary to undertake the judicial review. This has already been mentioned above. Therefore, unless the petitioner demonstrates that Parliament, in enacting the impugned provision, has exceeded its power prescribed in the Constitution or this provision violates any other provision(s) of the Constitution, the argument predicated on "limited governance" will not succeed. (Para 89)

State of M.P. v. *Bharat Singh*, AIR 1967 SC 1170 : (1967) 2 SCR 454, *referred to*

Reading down of Section 139-AA(2) proviso of the IT Act

However, the proviso to Section 139-AA(2) of the IT Act cannot be read retrospectively. If failure to intimate the Aadhaar number renders PAN void ab initio with the deeming provision that the PAN allotted would be invalid as if the person had not applied for allotment of PAN would have rippling effect of unsettling settled rights of the parties. It has the effect of undoing all the acts done by a person on the basis of such a PAN. It may have even the effect of incurring other penal consequences under the IT Act for earlier period on the ground that there was no PAN registration by a particular assessee. The rights which are already accrued to a person in law cannot be taken away. Therefore, Section 139-AA(2) proviso needs to be read down by making it clear that it would operate prospectively. (Paras 134 and 136.4)

Dayawati v. *Inderjit*, (1966) 3 SCR 275 : AIR 1966 SC 1423, *referred to*

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Validity of Section 139-AA of the IT Act subject to decision of Constitution Bench in K.S. Puttaswamy case

The validity of Section 139-AA of the IT Act upheld in the aforesaid manner however is subject to passing the muster of Article 21 of the Constitution, which is the issue before the Constitution Bench in Writ Petition (Civil) No. 494 of 2012 and other connected matters. Till then, there shall remain a partial stay on the operation of the proviso to sub-section (2) of Section 139-AA of the Act, as described above. (Paras 48 and 136.5)

Thus, it becomes clear from the aforesaid discussion that those who are not PAN holders, while applying for PAN, they are required to give Aadhaar number. This is the stipulation of Section 139-AA(1), which has been upheld. At the same time, as far as existing PAN holders are concerned, since the impugned provisions are yet to be considered on the touchstone of Article 21 of the Constitution, including on the debate around right to privacy and human dignity, etc. as limbs of Article 21, till the aforesaid aspect of Article 21 is decided by the Constitution Bench a partial stay of the aforesaid proviso is necessary. Those who have already enrolled themselves under Aadhaar Scheme would comply with the requirement of Section 139-AA(2) of the Act. Those who still want to enrol are free to do so. However, those assessees who are not Aadhaar card holders and do not comply with the provision of Section 139-AA(2), their PAN cards be not treated as invalid for the time being. It is only to facilitate other transactions which are mentioned in Rule 114-B of the Rules. This is because of very severe consequences that entail in not adhering to the requirement of sub-section (2) of Section 139-AA of the Act. A person who is holder of PAN and if his PAN is invalidated, he is bound to suffer immensely in his day-to-day dealings, which situation should be avoided till the Constitution Bench authoritatively determines the argument of Article 21 of the Constitution. In the interregnum, it would be permissible for Parliament to consider as to whether there is a need to tone down the effect of the said proviso by limiting the consequences. (Para 133)

M. Nagaraj v. *Union of India*, (2006) 8 SCC 212 : (2007) 1 SCC (L&S) 1013, *referred to*

Issues pending before Constitution Bench and issues touching upon Article 21 to be raised before Constitution Bench

Validity of Aadhaar, whether it is under the Aadhaar Scheme or the Aadhaar Act, is already under challenge on the touchstone of Article 21 of the Constitution. Various facets of Article 21 are pressed into service. However, all aspects of Article 21 need to be dealt with by the Constitution Bench. (Para 135.1)

The impugned provision has passed the muster of Articles 14 and 19(1)(g) of the Constitution. However, more stringent test as to whether this statutory provision violates Article 21 or not is yet to be qualified. Therefore, it is clarified that constitutional validity of this provision is upheld subject to the outcome of batch of petitions referred to the Constitution Bench where the said issue is to be examined. (Para 135.2)

The issues before the Constitution Bench inter alia are that the Aadhaar Scheme violates right to privacy and right to privacy is part of Article 21 of the Constitution. Secondly, it is also argued that it violates human dignity which is another aspect of Article 21 of the Constitution. Right to be let alone has the shades of right to privacy and it is so held by the Court in *R. Rajagopal*, (1994) 6 SCC 632.

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So is the right to informational self-determination, as specifically spelled out by the US Supreme Court in *Reporters Committee for Freedom of the Press*, 1989 SCC OnLine US SC 57. Keeping in mind the principle of judicial discipline, a conscious choice has been made not to deal with these aspects and it would be for the parties to raise these issues before the Constitution Bench. Accordingly, only the arguments based on Articles 14 and 19 of the Constitution as well as competence of the legislature to enact such law have been examined. (Paras 135.1 and 74)

R. Rajagopal v. *State of T.N.*, (1994) 6 SCC 632; *United States Deptt. of Justice* v. *Reporters Committee for Freedom of the Press*, 1989 SCC OnLine US SC 57 : 103 L Ed 2d 774 : 489 US 749 (1989), *considered*

National Legal Services Authority v. *Union of India*, (2014) 5 SCC 438; *Sunil Batra* v. *Delhi Admn.*, (1978) 4 SCC 494 : 1979 SCC (Cri) 155, *Aruna Ramachandra Shanbaug* v. *Union of India*, (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294, *referred to*

Anuj Garg v. *Hotel Assn. of India*, (2008) 3 SCC 1; *Munn* v. *Illinois*, 1876 SCC OnLine US SC 4 : 24 L Ed 77 : 94 US 113 (1877); *Cruzan* v. *Missouri Deptt. of Health*, 1990 SCC OnLine US SC 123 : 111 L Ed 2d 224 : 497 US 261 (1990); *Schloendorff* v *Society of New York Hospital*, 211 NY 125 : 105 NE 92 (1914); *Roe* v. *Wade*, 1973 SCC OnLine US SC 20 : 35 L Ed 2d 147 : 410 US 113 (1973); *Sharda* v. *Dharmpal*, (2003) 4 SCC 493, *cited*

It is clear that there is no provision in the Aadhaar Act which makes enrolment compulsory. May be for the purpose of obtaining benefits, proof of Aadhaar card is necessary as per Section 7 of the Act. The proviso to Section 7 stipulates that if an Aadhaar number is not assigned to an individual, he shall be offered alternate and viable means of identification for delivery of the subsidy, benefit or service. According to the petitioners, this proviso, which acknowledges alternate and viable means of identification, and therefore makes Aadhaar optional and voluntary and the enrolment is not necessary even for the purpose of receiving subsidies, benefits and services under various schemes of the Government. The State, however, interprets the proviso differently and their plea is that the words "if an Aadhaar number is not assigned to an individual" deal with only that situation where application for Aadhaar has been made but for certain reasons Aadhaar number has not been assigned as it may take some time to give Aadhaar card. Therefore, this proviso is only by way of an interim measure till Aadhaar number is assigned, which is otherwise compulsory for obtaining certain benefits as stated in Section 7 of the Aadhaar Act. Fact remains that as per the Government and UIDAI itself, the requirement of obtaining Aadhaar number is voluntary. It has been so claimed by UIDAI on its website and clarification to this effect has also been issued by UIDAI. (Para 94)

Thus, enrolment under Aadhaar is voluntary. However, it is a moot question as to whether for obtaining benefits as prescribed under Section 7 of the Aadhaar Act, it is mandatory to give Aadhaar number or not is a debatable issue which is not being addressed as this very issue is squarely raised which is the subject-matter of other writ petition filed and pending in the Supreme Court. (Para 95)

K.S. Puttaswamy v. *Union of India*, (2014) 6 SCC 433; *Unique Identification Authority of India* v. *CBI*, (2017) 7 SCC 157, *M.P. Sharma* v. *Satish Chandra*, AIR 1954 SC 300 : 1954 Cri LJ 865; *Kharak Singh* v *State of U.P.*, AIR 1963 SC 1295 : (1963) 2 Cri LJ 329 : (1964) 1 SCR 332; *K.S. Puttaswamy* v. *Union of India*, (2015) 8 SCC 735; *K.S. Puttaswamy* v. *Union of India*, (2015) 10 SCC 92; *S.G. Vombatkere* v. *Union of India*, WP (C) No. 797 of 2016, order dated 28-10-2016 (SC), *referred to*

Unique Identification Authority of India v. *CBI*, 2014 SCC OnLine Bom 4753, *cited*

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Information in Aadhaar should be secured and protected — Apprehension of data leak — Government directed to address said issue

a The Statement of Objects and Reasons of the Aadhaar Act also discloses that over a period of time, the use of Aadhaar number has been increased manifold and, therefore, it is also necessary to take measures relating to ensuring security of the information provided by the individuals while enrolling for Aadhaar card. (Para 19)

b It is also necessary to highlight that a large section of citizens feel concerned about possible data leak, even when many of those support linkage of PAN with Aadhaar. This is a concern which needs to be addressed by the Government. It is important that the aforesaid apprehensions are assuaged by taking proper measures so that confidence is instilled among the public at large that there is no chance of unauthorised leakage of data whether it is done by tightening the operations of the contractors who are given the job of enrolment, they being private persons or by

c prescribing severe penalties to those who are found guilty of leaking the details, is the outlook of the Government. However, it is emphasised that measures in this behalf are absolutely essential and it would be in the fitness of things that proper scheme in this behalf is devised at the earliest. (Para 135.3)

I. Constitution of India — Arts. 246 r/w Sch. VII List I Entries 82 and 97 — Power of Parliament to amend Income Tax Act, 1961, under — Undisputedly,

d **Parliament was fully competent to enact S. 139-AA, Income Tax Act — Income Tax Act, 1961, S. 139-AA (Paras 136.1 and 92)**

J. Constitution of India — Arts. 245 and 141 — Whether S. 139-AA of IT Act invalid on ground that it overruled interim order of Supreme Court which held that Aadhaar enrolment is not mandatory — S. 139-AA, Income Tax Act, 1961 having effect of making Aadhaar enrolment compulsory for all

e **assessees, held, valid and does not dilute any order of Court**

— No doubt Court stated that enrolment under Aadhaar is voluntary — But this was in context of an executive order and not in context of an Act of Parliament — Further, said order was interim order and principal issue whether right to privacy was violated by Aadhaar Scheme was yet to be decided by

f Constitution Bench

— Further, submission that basis of interim order should have been removed (i.e. by making changes in Aadhaar Act) to enable legislature to enact impugned S. 139-AA of the IT Act, not tenable — Firstly, because interim order was passed prior to enactment of Aadhaar Act — Secondly, because two Acts are for different purposes and operate in different fields — Income Tax Act,

g 1961, S. 139-AA (Paras 136.1, 92 and 96 to 99)

Synthetics and Chemicals Ltd. v. *State of U.P.*, (1990) 1 SCC 109; *Ram Jawaya Kapur* v. *State of Punjab*, (1955) 2 SCR 225 : AIR 1955 SC 549; *Madan Mohan Pathak* v. *Union of India*, (1978) 2 SCC 50 : 1978 SCC (L&S) 103; *Bakhtawar Trust* v. *M. D. Narayan*, (2003) 5 SCC 298; *Goa Foundation* v. *State of Goa*, (2016) 6 SCC 602; *Union of India* v. *SICOM Ltd.*, (2009) 2 SCC 121, *referred to*

h *All India Insurance Employees' Assn* v. *Union of India*, 1976 SCC OnLine Cal 108 : (1977) 2 LLN 146, *M. D. Narayan* v. *State of Karnataka*, 1997 SCC OnLine Kar 468 : (1999) 4 Kant LJ 413, *cited*

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K. Income Tax Act, 1961 — S. 139-AA — There is no conflict between Aadhaar Act and S. 139-AA, Income Tax Act and when interpreted harmoniously they operate in different fields — Even if enrolment under Aadhaar Act is voluntary and under S. 139-AA, Income Tax Act, it is compulsory, purposes under both Acts are different — They are two different standalone provisions and validity of one cannot be examined in light of other — It is prerogative of Parliament to make a particular provision directory in one statute and mandatory in another — Human and Civil Rights — Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, S. 7 (Paras 136.2 and 96 to 98)

MCD v. *Shiv Shanker*, (1971) 1 SCC 442 : 1971 SCC (Cri) 195, *relied on*

SS-D/58766/C

Advocates who appeared in this case :

Atmaram N.S. Nadkarni, Additional Solicitor General, Salman Khurshid, Arvind P. Datar and Shyam Divan, Senior Advocates (Sriram P., Vishnu Shankar M.S., Mukund P., Vishnu Jain, Govind Manoharan, Ms Sneha Ravi Iyer, Ms Athira G. Nair, Ms Sanchita Pratap Venugopal, Ms Surekha Raman, Udayaditya Banerjee, Prasanna S., Ms Niharika, Ms Kanika Kalaiyarasan, Ms Samiksha G., Apar Gupta, M/s K.J. John & Co., Anando Mukherjee, Nipun Saxena, Ms Divya Anand, Kumar Shivam, Dr Arghya Sengupta, Saurabh Kirpal, Zoheb Hossain, Ritesh Kumar, Abhinav Mukherji, Ms Ranjeeta Rohatgi, Ms Anil Katiyar, Santosh Rebello, Jai Dehadrai, Ms Sneha Tendulkar, Ms Nivedita Nair, Anil Gulati, Ms Ritwika Sharma and Ms Adeeba N., Advocates) for the appearing parties.

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72. 4 L Ed 579 : 17 US 316 (1819), *M'Culloch* v. *Maryland* 151*e-f*

The Judgment of the Court was delivered by

DR A.K. SIKRI, J.— In these three writ petitions filed by the petitioners, who claim themselves to be public-spirited persons, challenge is laid to the constitutional validity of Section 139-AA of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), which provision has been inserted by the amendment to the said Act vide Finance Act, 2017.

2. Section 139-AA of the Act reads as under:

"**139-AA.** ***Quoting of Aadhaar number.***—(1) Every person who is eligible to obtain Aadhaar number shall, on or after the 1st day of July, 2017, quote Aadhaar number—

(*i*) in the application form for allotment of Permanent Account Number;

(*ii*) in the return of income:

Provided that where the person does not possess the Aadhaar number, the Enrolment ID of Aadhaar application form issued to him at the time of enrolment shall be quoted in the application for Permanent Account Number or, as the case may be, in the return of income furnished by him.

(2) Every person who has been allotted Permanent Account Number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette:

Provided that in case of failure to intimate the Aadhaar number, the Permanent Account Number allotted to the person shall be deemed to be

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invalid and the other provisions of this Act shall apply, as if the person had not applied for allotment of Permanent Account Number.

(3) The provisions of this section shall not apply to such person or class or classes of persons or any State or part of any State, as may be notified by the Central Government in this behalf, in the Official Gazette.

Explanation.—For the purposes of this section, the expressions—

(*i*) "Aadhaar number", "Enrolment" and "resident" shall have the same meanings respectively assigned to them in clauses (*a*), (*m*) and (*v*) of Section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016);

(*ii*) "Enrolment ID" means a 28 digit Enrolment Identification Number issued to a resident at the time of enrolment."

3. Even a cursory look at the aforesaid provision makes it clear that in the application forms for allotment of Permanent Account Number (for short "PAN") as well as in the income tax returns, the assessee is obliged to quote Aadhaar number. This is necessitated on any such applications for PAN or return of income on or after 1-7-2017, which means from that date quoting of Aadhaar number for the aforesaid purposes becomes essential. Proviso to sub-section (1) gives relaxation from quoting Aadhaar number to those persons who do not possess Aadhaar number but have already applied for issuance of Aadhaar card. In their cases, the Enrolment ID of Aadhaar application form is to be quoted. It would mean that those who would not be possessing Aadhaar card as on 1-7-2017 may have to necessarily apply for enrolment of Aadhaar before 1-7-2017.

4. The effect of this provision, thus, is that every person who desires to obtain PAN card or who is an assessee has to necessarily enrol for Aadhaar. It makes obtaining of Aadhaar card compulsory for those persons who are income tax assessees. Proviso to sub-section (2) of Section 139-AA of the Act stipulates the consequences of failure to intimate the Aadhaar number. In those cases, PAN allotted to such persons would become invalid not only from 1-7-2017, but from its inception as the deeming provision in this proviso mentions that PAN would be invalid as if the person had not applied for allotment of PAN i.e. from the very beginning. Sub-section (3), however, gives discretion to the Central Government to exempt such person or class or classes of persons or any State or part of any State from the requirement of quoting Aadhaar number in the application form for PAN or in the return of income.

5. The challenge is to this compulsive nature of provision inasmuch as with the introduction of the aforesaid provision, no discretion is left with the income tax assessees insofar as enrolment under the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (hereinafter referred to as "the Aadhaar Act") is concerned. According to the petitioners, though the Aadhaar Act prescribes that enrolment under the said Act is voluntary and gives choice to a person to enrol or not to enrol himself and obtain Aadhaar card, this compulsive element thrusted in Section 139-AA of the Act makes the said provision unconstitutional. The basis on which the

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petitioners so contend would be taken note of at the appropriate stage. Purpose of these introductory remarks was to highlight the issue involved in these writ petitions at the threshold.

6. Before we take note of the arguments advanced by the petitioners and the rebuttal thereof by the respondents, it would be in the fitness of things to take stock of historical facts pertaining to the Aadhaar Scheme and what Aadhaar enrolment amounts to.

Aadhaar Scheme and its administrative and statutory framework

7. Respondent 1, the Union of India, through the Planning Commission, issued Notification dated 28-1-2009, constituting the Unique Identification Authority of India (for short "UIDAI") for the purpose of implementing of Unique Identity (UID) scheme wherein a UID database was to be collected from the residents of India. Pursuant to the said notification, the Government of India appointed Shri Nandan Nilekhani, an entrepreneur, as the Chairman of the UIDAI on 2-7-2009. According to this scheme, every citizen of India is entitled to enrol herself/himself with it and get a unique, randomly selected 12 digit number. For such enrolment, every person so intending would have to provide his/her personal information along with biometric details such as fingerprints and iris scan for future identification. Accordingly, it is intended to create a centralised database under the UIDAI with all the above information. The scheme was launched in September 2010 in the rural areas of Maharashtra and thereafter extended all over India. One of the objects of the entire project was non-duplication and elimination of fake identity cards.

8. On 3-12-2010, the National Identification Authority of India Bill, 2010 was introduced in the Rajya Sabha. On 13-12-2011, the Standing Committee Report was submitted to Parliament stating that both the Bill and project should be reconsidered. The Parliamentary Standing Committee on Finance rejected the Bill of 2010 as there was opposition to the passing of the aforesaid Bill by Parliament. Be that as it may, the said Bill of 2010 did not get through. The result was that as on that date, Aadhaar Scheme was not having any statutory backing but was launched and continued to operate in exercise of executive power of the Government. It may also be mentioned that the Government appointed private enrollers and these private collection/enrolment centres run by private parties continued to enrol the citizens under the UID scheme.

9. Writ Petition (Civil) No. 494 of 2012, under Article 32 of the Constitution of India, was preferred by Justice K.S. Puttuswamy, a former Judge of the Karnataka High Court before this Court, challenging the UID scheme stating therein that the same does not have any statutory basis and it violated the "Right to Privacy", which is a facet of Article 21 of the Constitution. This Court decided to consider the plea raised in the said writ petition and issued notice. Vide order dated 23-9-2013[1], the Court also passed the following directions: (*K.S. Puttaswamy case*[1], SCC p. 434, para 4)

> "4. In the meanwhile, no person should suffer for not getting the Aadhaar card in spite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Aadhaar card

1 *K.S. Puttaswamy* v. *Union of India*, (2014) 6 SCC 433

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voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant."

In the meanwhile, various writ petitions were filed by public-spirited citizens and organisations challenging the validity of the Aadhaar Scheme and this Court has tagged all those petitions along with Writ Petition (Civil) No. 494 of 2012.

10. In the meantime, in some proceedings before the Bombay High Court, the said High Court passed orders[2] requiring UIDAI to provide biometric information to CBI for investigation purposes with respect to a criminal trial. This order was challenged by UIDAI by filing Special Leave Petition (Criminal) No. 2524 of 2014, in which orders dated 24-3-2014[3] were passed by this Court restraining the UIDAI from transferring any biometric information to any agency without the written consent of the individual concerned. The said order is in the following terms:

> "...In the meanwhile, the present petitioner is restrained from transferring any biometric information of any person who has been allotted the Aadhaar number to any other agency without his consent in writing. More so, no person shall be deprived of any service for want of Aadhaar number in case he/she is otherwise eligible/entitled. All the authorities are directed to modify their forms/circulars/likes so as to not compulsorily require the Aadhaar number in order to meet the requirement of the interim order passed by this Court forthwith."

11. Thereafter, the aforesaid writ petitions and special leave petitions were taken up together. Matter was heard at length by a three-Judge Bench of this Court and detailed arguments were advanced by various counsel appearing for the petitioners as well as the Attorney General for India who appeared on behalf of the Union of India. As stated above, one of the main grounds of attack on Aadhaar card scheme was that the very collection of biometric data is violative of the "Right to Privacy", which, in turn, violated not only Article 21 of the Constitution of India but other articles embodying the fundamental rights guaranteed under Part III of the Constitution. This argument was sought to be rebutted by the respondents with the submission that in view of the eight-Judge Bench judgment of this Court in *M.P. Sharma* v. *Satish Chandra*[4] and that of the six-Judge Bench judgment in *Kharak Singh* v. *State of U.P.*[5], the legal position regarding the existence of fundamental right to privacy is doubtful. At the same time, it was also accepted that subsequently smaller Benches of two or three Judges of this Court had given the judgments recognising the right to privacy as part of Article 21 of the Constitution. On that basis, the respondents submitted that the matters were required to be heard by a larger Bench to debate important questions like:

2 *Unique Identification Authority of India* v. *CBI*, 2014 SCC OnLine Bom 4753
3 *Unique Identification Authority of India* v. *CBI*, (2017) 7 SCC 157
4 AIR 1954 SC 300 : 1954 Cri LJ 865
5 AIR 1963 SC 1295 : (1963) 2 Cri LJ 329 : (1964) 1 SCR 332

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(*i*) Whether there is any right to privacy guaranteed under the Constitution? and

(*ii*) If such a right exists, what is the source and what are the contours of such a right as there is no express provision in the Constitution adumbrating the right to privacy?

12. Though, this suggestion of the respondents was opposed by the counsel for the petitioners, the said Bench still deemed it proper to refer the matter to the larger Bench and the reasons for taking this course of action are mentioned in paras 12 and 13 of the order dated 11-8-2015[6] which reads as under: (*K.S. Puttaswamy case*[6], SCC p. 741)

"*12.* We are of the opinion that the cases on hand raise far-reaching questions of importance involving interpretation of the Constitution. What is at stake is the amplitude of the fundamental rights including that precious and inalienable right under Article 21. If the observations made in *M.P. Sharma*[4] and *Kharak Singh*[5] are to be read literally and accepted as the law of this country, the fundamental rights guaranteed under the Constitution of India and more particularly right to liberty under Article 21 would be denuded of vigour and vitality. *At the same time, we are also of the opinion that the institutional integrity and judicial discipline require that pronouncement made by larger Benches of this Court cannot be ignored by the smaller Benches without appropriately explaining the reasons for not following the pronouncements made by such larger Benches.* With due respect to all the learned Judges who rendered the subsequent judgments —where right to privacy is asserted or referred to their Lordships concern for the liberty of human beings, we are of the humble opinion that there appears to be certain amount of apparent unresolved contradiction in the law declared by this Court.

13. Therefore, in our opinion to give a quietus to the kind of controversy raised in this batch of cases once for all, it is better that ratio decidendi of *M.P. Sharma*[4] and *Kharak Singh*[5] is scrutinised and the jurisprudential correctness of the subsequent decisions of this Court where the right to privacy is either asserted or referred be examined and authoritatively decided by a Bench of appropriate strength." (emphasis supplied)

13. While referring the matter as aforesaid, by another order[7] of the even date, the Bench expressed that it would be desirable that the matter be heard at the earliest. On the same day, yet another order[8] was passed by the Bench in those petitions giving certain interim directions which would prevail till the matter is finally decided by the larger Bench. We would like to reproduce this

6 *K.S. Puttaswamy* v. *Union of India*, (2015) 8 SCC 735, 736-741 (paras 1-14)
4 *M.P. Sharma* v. *Satish Chandra*, AIR 1954 SC 300 : 1954 Cri LJ 865
5 *Kharak Singh* v. *State of U.P.*, AIR 1963 SC 1295 : (1963) 2 Cri LJ 329 : (1964) 1 SCR 332
7 *K.S. Puttaswamy* v. *Union of India*, (2015) 8 SCC 735, 741 (para 15)
8 *K.S. Puttaswamy* v. *Union of India*, (2015) 8 SCC 735, 742-743 (paras 16-23)

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order containing the said interim arrangement in toto: (*K.S. Puttaswamy case*[8], SCC pp. 742-43, paras 16-23)

"INTERIM ORDER

16. After the matter was referred for decision by a larger Bench, the learned counsel for the petitioners prayed for further interim orders. The last interim order in force is the order of this Court dated 23-9-2013[1] which reads as follows: (*K.S. Puttaswamy case*[1], SCC p. 434, paras 3-4)

'*3.* All the matters require to be heard finally. List all matters for final hearing after the Constitution Bench is over.

4. In the meanwhile, no person should suffer for not getting the Aadhaar card inspite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Aadhaar card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant.'

17. It was submitted by Shri Shyam Divan, learned counsel for the petitioners that the petitioners having pointed out a serious breach of privacy in their submissions, preceding the reference, this Court may grant an injunction restraining the authorities from proceeding further in the matter of obtaining biometrics, etc. for an Aadhaar card. Shri Shyam Divan submitted that the biometric information of an individual can be circulated to other authorities or corporate bodies which, in turn can be used by them for commercial exploitation and, therefore, must be stopped.

18. The learned Attorney General pointed out, on the other hand, that this Court has at no point of time, even while making the interim order dated 23-9-2013[1] granted an injunction restraining the Unique Identification Authority of India from going ahead and obtaining biometric or other information from a citizen for the purpose of a Unique Identification Number, better known as "Aadhaar card". It was further submitted that the respondents have gone ahead with the project and have issued Aadhaar cards to about 90% of the population. Also that a large amount of money has been spent by the Union Government on this project for issuing Aadhaar cards and that in the circumstances, none of the well-known consideration for grant of injunction are in favour of the petitioners.

19. The learned Attorney General stated that the respondents do not share any personal information of an Aadhaar card holder through biometrics or otherwise with any other person or authority. This statement allays the apprehension for now, that there is a widespread breach of privacy of those to whom an Aadhaar card has been issued. It was further contended on behalf of the petitioners that there still is breach of privacy. This is a matter which need not be gone into further at this stage.

8 *K.S. Puttaswamy* v. *Union of India*, (2015) 8 SCC 735, 742-743 (paras 16-23)
1 *K.S. Puttaswamy* v. *Union of India*, (2014) 6 SCC 433

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20. The learned Attorney General has further submitted that the Aadhaar card is of great benefit since it ensures an effective implementation of several social benefit schemes of the Government like MGNREGA, the distribution of food, ration and kerosene through PDS system and grant of subsidies in the distribution of LPG. It was, therefore, submitted that restraining the respondents from issuing further Aadhaar cards or fully utilising the existing Aadhaar cards for the social schemes of the Government should be allowed.

21. The learned Attorney General further stated that the respondent Union of India would ensure that Aadhaar cards would only be issued on a consensual basis after informing the public at large about the fact that the preparation of Aadhaar card involving the parting of biometric information of the individual, which shall however not be used for any purpose other than the social benefit schemes.

22. Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger Bench if the Union of India or UIDA proceed in the following manner:

22.1. The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card;

22.2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen;

22.3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme;

22.4. The information about an individual obtained by the Unique Identification Authority of India while issuing an Aadhaar card shall not be used for any other purpose, save as above, except as may be directed by a Court for the purpose of criminal investigation.

23. Ordered accordingly."

14. In a nutshell, the direction is that obtaining an Aadhaar card is not mandatory and the benefits due to a citizen under any scheme are not to be denied in the absence of an Aadhaar card. Further, unique identification number or the Aadhaar card was to be used only for the PDS Scheme and, in particular, for the purpose of distribution of foodgrains, etc. and cooking fuels such as kerosene and LPG Distribution Scheme, with clear mandate that it will not be used by the respondents for any other purpose. Even the information about the individual collected while issuing an Aadhaar card was not to be used for any other purpose, except when it is directed by the court for the purpose of criminal investigation. Thus, making of Aadhaar card was not to be made mandatory and it was to be used only for PDS Scheme and LPG Distribution Scheme.

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15. Thereafter, certain applications for modification of the aforesaid order dated 11-8-2015[6] were filed before this Court by the Union of India and a five-Judge Bench of this Court was pleased to pass the following order[9]: (*K.S. Puttaswamy case*[9], SCC p. 93, paras 3-5)

> "3. After hearing the learned Attorney General for India and other learned Senior Counsel, we are of the view that in para 22.3 of the order dated 11-8-2015[6], if we add, apart from the other two Schemes, namely, PDS Scheme and the LPG Distribution Scheme, the Schemes like the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), National Social Assistance Programme (Old Age Pensions, Widow Pensions, Disability Pensions), Prime Minister's Jan Dhan Yojana (PMJDY) and Employees' Provident Fund Organisation (EPFO) for the present, it would not dilute earlier order passed by this Court. Therefore, we now include the aforesaid Schemes apart from the other two Schemes that this Court has permitted in its earlier order dated 11-8-2015[6].
>
> *4.* We impress upon the Union of India that it shall strictly follow all the earlier orders passed by this Court commencing from 23-9-2013[1].
>
> *5.* We will also make it clear that the Aadhaar Card Scheme is purely voluntary and it cannot be made mandatory till the matter is finally decided by this Court one way or the other."

Thus, Aadhaar is permitted for some more schemes as well.

16. The petitioner herein, laying stress on the above orders, plead that from a perusal of the various interim orders passed by this Court it is amply clear that the Court has reiterated the position that although there is no interim order against the collection of information from the citizens for the purpose of enrolment for Aadhaar, the scheme is purely voluntary and the same is not to be made mandatory by the Government.

17. While matters stood thus, the Government of India brought in a legislation to govern the Aadhaar Scheme with the enactment of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.

18. Introduction to the said Act gives the reasons for passing that Act and the Statement of Objects and Reasons mention the objectives sought to be achieved with the enactment of the Aadhaar Act. Introduction reads as under:

> "The Unique Identification Authority of India was established by a resolution of the Government of India in 2009. It was meant primarily to lay down policies and to implement the Unique Identification Scheme, by which residents of India were to be provided unique identity number. This number would serve as proof of identity and could be used for identification of beneficiaries for transfer of benefits, subsidies, services and other purposes.

6 *K.S. Puttaswamy* v. *Union of India*, (2015) 8 SCC 735, 736-741 (paras 1-14)
9 *K.S. Puttaswamy* v. *Union of India*, (2015) 10 SCC 92
1 *K.S. Puttaswamy* v. *Union of India*, (2014) 6 SCC 433

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Later on, it was felt that the process of enrolment, authentication, security, confidentiality and use of Aadhaar related information be made statutory so as to facilitate the use of Aadhaar number for delivery of various benefits, subsidies and services, the expenditures of which were incurred from or receipts therefrom formed part of the Consolidated Fund of India.

The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016 inter alia, provides for establishment of Unique Identification Authority of India, issuance of Aadhaar number to individuals, maintenance and updating of information in the Central Identities Data Repository, issues pertaining to security, privacy and confidentiality of information as well as offences and penalties for contravention of relevant statutory provisions."

19. In the Statement of Objects and Reasons, it is inter alia mentioned that though number of social benefits schemes have been floated by the Government, the failure to establish identity of an individual has proved to be a major hindrance for successful implementation of those programmes as it was becoming difficult to ensure that subsidies, benefits and services reach the unintended beneficiaries in the absence of a credible system to authenticate identity of beneficiaries. The Statement of Objects and Reasons also discloses that over a period of time, the use of Aadhaar number has been increased manifold and, therefore, it is also necessary to take measures relating to ensuring security of the information provided by the individuals while enrolling for Aadhaar card. Having these parameters in mind, Para 5 of the Statement of Objects and Reasons enumerates the objectives which the Aadhaar Act seeks to achieve. It reads as under:

"5. The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016 inter alia, seeks to provide for—

(*a*) issue of Aadhaar numbers to individuals on providing his demographic and biometric information to the Unique Identification Authority of India;

(*b*) requiring Aadhaar numbers for identifying an individual for delivery of benefits, subsidies, and services the expenditure is incurred from or the receipt therefrom forms part of the Consolidated Fund of India;

(*c*) authentication of the Aadhaar number of an Aadhaar number holder in relation to his demographic and biometric information;

(*d*) establishment of the Unique Identification Authority of India consisting of a Chairperson, two Members and a Member-Secretary to perform functions in pursuance of the objectives above;

(*e*) maintenance and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations;

(*f*) measures pertaining to security, privacy and confidentiality of information in possession or control of the Authority including information stored in the Central Identities Data Repository; and

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(*g*) offences and penalties for contravention of relevant statutory provisions."

20. Some of the provisions of this Act, which have bearing on the matter that is being dealt with herein, may be taken note of. Sections 2(*a*), 2(*c*), 2(*d*), 2(*e*), 2(*g*), 2(*h*), 2(*k*), 2(*l*), 2(*m*), 2(*n*), Section 3, Section 7, Section 28, Section 29 and Section 30 read as under:

"2. (*a*) "**Aadhaar number**" means an identification number issued to an individual under sub-section (3) of Section 3;

* * *

(*c*) "**authentication**" means the process by which the Aadhaar number along with demographic information or biometric information of an individual is submitted to the Central Identities Data Repository for its verification and such Repository verifies the correctness, or the lack thereof, on the basis of information available with it;

(*d*) "**authentication record**" means the record of the time of authentication and identity of the requesting entity and the response provided by the Authority thereto;

(*e*) "**Authority**" means the Unique Identification Authority of India established under sub-section (1) of Section 11;

* * *

(*g*) "**biometric information**" means photograph, fingerprint, iris scan, or such other biological attribute of an individual as may be specified by regulations;

(*h*) "**Central Identities Data Repository**" means a centralised database in one or more locations containing all Aadhaar numbers issued to Aadhaar number holders along with the corresponding demographic information and biometric information of such individuals and other information related thereto;

* * *

(*k*) "**demographic information**" includes information relating to the name, date of birth, address and other relevant information of an individual, as may be specified by regulations for the purpose of issuing an Aadhaar number, but shall not include race, religion, caste, tribe, ethnicity, language, records of entitlement, income or medical history;

(*l*) "**enrolling agency**" means an agency appointed by the Authority or a Registrar, as the case may be, for collecting demographic and biometric information of individuals under this Act;

(*m*) "**enrolment**" means the process, as may be specified by regulations, to collect demographic and biometric information from individuals by the enrolling agencies for the purpose of issuing Aadhaar numbers to such individuals under this Act;

(*n*) "**identity information**" in respect of an individual, includes his Aadhaar number, his biometric information and his demographic information;

* * *

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3. ***Aadhaar number.***—(1) Every resident shall be entitled to obtain an Aadhaar number by submitting his demographic information and biometric information by undergoing the process of enrolment:

Provided that the Central Government may, from time to time, notify such other category of individuals who may be entitled to obtain an Aadhaar number.

(2) The enrolling agency shall, at the time of enrolment, inform the individual undergoing enrolment of the following details in such manner as may be specified by regulations, namely:

(*a*) the manner in which the information shall be used;

(*b*) the nature of recipients with whom the information is intended to be shared during authentication, and

(*c*) the existence of a right to access information, the procedure for making requests for such access, and details of the person or department in-charge to whom such requests can be made.

(3) On receipt of the demographic information and biometric information under sub-section (1), the Authority shall, after verifying the information, in such manner as may be specified by regulations, issue an Aadhaar number to such individual.

* * *

7. ***Proof of Aadhaar number necessary for receipt of certain subsidies, benefits and services, etc.***—The Central Government or, as the case may be, the State Government may, for the purpose of establishing identity of an individual as a condition for receipt of a subsidy, benefit or service for which the expenditure is incurred from, or the receipt therefrom forms part of, the Consolidated Fund of India, require that such individual undergo authentication, or furnish proof of possession of Aadhaar number or in the case of an individual to whom no Aadhaar number has been assigned, such individual makes an application for enrolment:

Provided that if an Aadhaar number is not assigned to an individual, the individual shall be offered alternate and viable means of identification for delivery of the subsidy, benefit or service.

* * *

28. ***Security and confidentiality of information.***—(1) The Authority shall ensure the security of identity information and authentication records of individuals.

(2) Subject to the provisions of this Act, the Authority shall ensure confidentiality of identity information and authentication records of individuals.

(3) The Authority shall take all necessary measures to ensure that the information in the possession or control of the Authority, including information stored in the Central Identities Data Repository, is secured and protected against access, use or disclosure not permitted under this Act or regulations made thereunder, and against accidental or intentional destruction, loss or damage.

(4) Without prejudice to sub-sections (1) and (2), the Authority shall—

(*a*) adopt and implement appropriate technical and organisational security measures;

(*b*) ensure that the agencies, consultants, advisors or other persons appointed or engaged for performing any function of the Authority under this Act, have in place appropriate technical and organisational security measures for the information; and

(*c*) ensure that the agreements or arrangements entered into with such agencies, consultants, advisors or other persons, impose obligations equivalent to those imposed on the Authority under this Act, and require such agencies, consultants, advisors and other persons to act only on instructions from the Authority.

(5) Notwithstanding anything contained in any other law for the time being in force, and save as otherwise provided in this Act, the Authority or any of its officers or other employees or any agency that maintains the Central Identities Data Repository shall not, whether during his service or thereafter, reveal any information stored in the Central Identities Data Repository or authentication record to anyone:

Provided that an Aadhaar number holder may request the Authority to provide access to his identity information excluding his core biometric information in such manner as may be specified by regulations.

29. ***Restriction on sharing information.***—(1) No core biometric information, collected or created under this Act, shall be—

(*a*) shared with anyone for any reason whatsoever; or

(*b*) used for any purpose other than generation of Aadhaar numbers and authentication under this Act.

(2) The identity information, other than core biometric information, collected or created under this Act may be shared only in accordance with the provisions of this Act and in such manner as may be specified by regulations.

(3) No identity information available with a requesting entity shall be—

(*a*) used for any purpose, other than that specified to the individual at the time of submitting any identity information for authentication; or

(*b*) disclosed further, except with the prior consent of the individual to whom such information relates.

(4) No Aadhaar number or core biometric information collected or created under this Act in respect of an Aadhaar number holder shall be published, displayed or posted publicly, except for the purposes as may be specified by regulations.

30. ***Biometric information deemed to be sensitive personal information.***—The biometric information collected and stored in electronic form, in accordance with this Act and regulations made thereunder, shall be deemed to be "electronic record" and "sensitive personal data or information", and the provisions contained in the Information Technology Act, 2000 (21

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of 2000) and the rules made thereunder shall apply to such information, in addition to, and to the extent not in derogation of the provisions of this Act.

Explanation.—For the purposes of this section, the expressions—

(*a*) "**electronic form**" shall have the same meaning as assigned to it in clause (*r*) of sub-section (1) of Section 2 of the Information Technology Act, 2000 (21 of 2000);

(*b*) "**electronic record**" shall have the same meaning as assigned to it in clause (*t*) of sub-section (1) of Section 2 of the Information Technology Act, 2000 (21 of 2000);

(*c*) "**sensitive personal data or information**" shall have the same meaning as assigned to it in clause (*iii*) of the Explanation to Section 43-A of the Information Technology Act, 2000 (21 of 2000)."

That apart, Chapter VII which comprises Sections 34 to 47, mentions various offences and prescribes penalties therefor.

21. Even the constitutional validity of the aforesaid Act is challenged in this Court in Writ Petition (C) No. 797 of 2016, which has also been tagged[10] along with Writ Petition (C) No. 494 of 2012, the lead matter in the batch of matters which has been referred to the Constitution Bench.

22. At this juncture, by the Finance Act, 2017, the Income Tax Act is amended with introduction of Section 139-AA which provision has already been reproduced. It would be necessary to mention at this stage that since challenge to the very concept of Aadhaar i.e. unique identification number is predicated primarily on right to privacy, when instant writ petitions were initially listed before us, we suggested that these matters be also tagged along with Writ Petition (C) No. 494 of 2012 and other matters which have been referred to the Constitution Bench. Pertinently, in the counter-affidavit filed on behalf of the Union of India also, plea has been taken that the matters be tagged along with those pending writ petitions and be decided by a larger Bench. On this suggestion, reaction of the learned counsel for the petitioners was that the petitioners would not be pitching their case on the "Right to Privacy" and would be questioning the validity of Section 139-AA of the Act primarily on Articles 14 and 19 of the Constitution. On this basis, their submission was that this Bench should proceed to adjudicate the matter. Therefore, we make it clear at the outset that we are not touching upon the privacy issue while determining the question of validity of the impugned provision of the Act.

The arguments

23. Mr Datar, learned Senior Counsel who opened the attack on behalf of the petitioners, started by stating the historical fact pertaining to introduction of Aadhaar Scheme, leading to the passing of the Aadhaar Act and thereafter

10 *S.G. Vombatkere* v. *Union of India*, WP (C) No. 797 of 2016, order dated 28-10-2016 (SC), wherein it was directed:

"Issue rule nisi. Tag with WP (C) No. 494 of 2012 and connected matters."

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the impugned provision and referring to the various orders passed by this Court from time to time (which have already been reproduced above). After this narration, his first submission was that this Court had, time and again, emphasised by various interim orders that obtaining an Aadhaar card would be a voluntarily act on behalf of a citizen and it would not be made mandatory till the pendency of the petitions which stand referred to the Constitution Bench now. He further submitted that even Section 3 of the Aadhaar Act spells out that enrolment of Aadhaar is voluntarily and consensual and not compulsory or by way of executive action. He also drew our attention to the proviso to Section 7 of the Aadhaar Act as per which a person is not to be deprived of subsidies as per the various schemes of the Government as the said proviso clearly mentions that if an Aadhaar number is not assigned to an individual, he shall be offered alternate and viable means of identification for delivery of subsidy, benefit or service. According to him, there was a total reversal of the aforesaid approach for assessees under the Income Tax Act and those who wanted to apply for issuance of PAN card inasmuch as not only it was made compulsory for them to get Aadhaar enrolment number, but serious consequences were also provided for not adhering to this requirement. In their cases, PAN issued to these assessees had to become invalid, that too from the retrospective effect i.e. from the date when it is issued.

24. Having regard to the aforesaid, the legal submission of Mr Datar was that Section 139-AA of the Act was unconstitutional and without legislative competence inasmuch as this provision was enacted contrary to the binding nature of the judgments/directions of this Court which were categorical that Aadhaar had to remain voluntary. Questioning the legislative competence of the legislature to enact this particular law, argument of Mr Datar was that there were certain implied limitations of such a legislative competence and one of these limitations was that the legislature was debarred from enacting a law contrary to the binding nature of the decisions of this Court. His submission in this behalf was that though it was within the competence of the legislature to remove the basis of the Supreme Court decision, at the same time, the legislature could not go against the decision which was law of the land under Article 141 of the Constitution. He argued that, in the instant case, the legislature could not be construed as removing the basis of the various orders of this Court relating to Aadhaar Scheme itself but the impugned provision was inserted in the statute book violating the binding nature of those orders.

25. Dilating on the aforesaid submissions, Mr Datar argued that the earlier orders of this Court dated 11-8-2015[6] of the main writ petition specifically permitted Aadhaar to be used only for LPG and PDS Schemes. By an order dated 15-10-2015[9], at the request of the Union of India, it was permitted to be extended to three other schemes, namely, MNREGA, Jan Dhan Yojana, etc. The Constitution Bench[9] made it explicitly clear that the Aadhaar Scheme

6 *K.S. Puttaswamy* v. *Union of India*, (2015) 8 SCC 735, 736-741 (paras 1-14)
9 *K.S. Puttaswamy* v. *Union of India*, (2015) 10 SCC 92

could not be used for any other purpose. According to him, Parliament did not in any manner remove the basis of these decisions. The Aadhaar Scheme, as enacted under the Aadhaar Act, continued to retain its voluntary character (as demonstrated by Section 3 of that Act) that existed when Aadhaar was operating under executive instructions. Nonetheless, even if it is argued that the above orders were passed when Aadhaar was based on executive instructions, decisions of this Court continue to be binding as they are made in exercise of the judicial power. According to Mr Datar, any judgment of a court, whether interim or final, whether rendered in the context of a legislation, delegated legislation (rules/notifications) or even executive action will continue to be binding. In view of the judgment of this Court in *Ram Jawaya Kapur* v. *State of Punjab*[11], which held that executive and legislative powers are co-extensive under the constitutional scheme, unless the basis of the judgment is removed by a subsequent enactment, it cannot be argued that a decision based on executive instruction is less binding than other judgments/orders of the Supreme Court, or that the judgment/order loses force if the executive instruction is replaced by law.

26. Mr Datar also referred to the decision in *Mudan Mohan Pathak* v. *Union of India*[12], wherein the direction of the Calcutta High Court[13] to pay bonus to Class III and Class IV employees was sought to be nullified by a statutory amendment. This was held to be impermissible by the seven-Judge Bench. He also relied upon *Bakhtawar Trust* v. *M.D. Narayan*[14], wherein, after citing the case laws on this point, the Court reiterated the principle as follows: (SCC pp. 311-12, paras 25 & 27)

> "25. The decisions referred to above, manifestly show that it is open to the legislature to alter the law retrospectively, provided the alteration is made in such a manner that it would no more be possible for the Court to arrive at the same verdict. In other words, the very premise of the earlier judgment should be uprooted, thereby resulting in a fundamental change of the circumstances upon which it was founded.
>
> * * *
>
> 27. Here, the question before us is, whether the impugned Act has passed the test of constitutionality by serving to remove the very basis upon which the decision[15] of the High Court in the writ petition was based. This question gives rise to further two questions—*first, what was the basis of the earlier decision; and second, what, if any, may be said to be the removal of that basis?*" (emphasis supplied)

11 (1955) 2 SCR 225 : AIR 1955 SC 549
12 (1978) 2 SCC 50 : 1978 SCC (L&S) 103
13 *All India Insurance Employees' Assn.* v. *Union of India*, 1976 SCC OnLine Cal 108 : (1977) 2 LLN 146
14 (2003) 5 SCC 298
15 *M.D. Narayan* v. *State of Karnataka*, 1997 SCC OnLine Kar 468 : (1999) 4 Kant LJ 413

27. Based on the above principles, Mr Datar's fervent plea was that:

27.1. The basis of the earlier order[9] of the Supreme Court is that Aadhaar will be made a voluntary scheme, it is a consensual scheme, and that it is to be expressly limited to six specific purposes; and

27.2. No attempt whatsoever has been made to remove the basis of these earlier orders. This alone renders Section 139-AA unconstitutional.

28. Arguing that basis of the orders of this Court was not removed, plea of Mr Datar was that the basis of the said orders was that serious constitutional concerns had been raised about the Aadhaar Scheme, and that therefore, pending final decision on its validity by the Supreme Court, it ought to remain voluntary. Consequently, in order to remove the basis of these orders, Parliament would have to pass a law overturning the voluntary character of Aadhaar itself. Notably, although Parliament did have a chance to do so, it elected not to. The Aadhaar Act came into force on 25-3-2016. This was after the order[9] of this Court. Significantly, however, Parliament continued to maintain Aadhaar as a voluntary scheme vide Section 3 of the said Act. Mr Datar submitted that if Parliament so desired, it could have removed the basis of this Court's order by:

28.1. Amending Section 3 so that Aadhaar is made compulsory for every resident of India; or

28.2. Introducing either a proviso or adding a sub-section in Section 3 to the following effect:

> "Notwithstanding anything contained in sub-section (1), the Central Government may notify specific purposes for which obtaining Aadhaar numbers may be made mandatory in public interest."

29. However, Parliament elected not to do so as there is no non obstante clause. Instead of making enrolment for Aadhaar itself mandatory, it made Aadhaar mandatory for filing income tax returns, even as enrolment itself remained voluntary under Section 3 of the Aadhaar Act. He, thus, submitted that that is far from taking away the basis of the earlier Supreme Court orders. The Aadhaar Act strengthened and endorsed those orders, while Section 139-AA of the Act impermissibly attempted to overturn them without taking away their basis. Indeed, Parliament did not even go so far as to include a non obstante clause in Section 139-AA, which would have made it clear that section would override contrary laws—clearly indicating once again that Section 139-AA was not taking away the basis of the Court's orders. The emphasis of Mr Datar is that unless suitable/appropriate amendments are made to the Aadhaar Act, the orders of the Court cannot be overruled by the newly inserted Section 139-AA.

9 *K.S. Puttaswamy* v. *Union of India*, (2015) 10 SCC 92

30. On the aforesaid edifice, the argument built and developed by Mr Datar is that although the power of Parliament to pass laws with respect to List I and List III is plenary, it is subject to two implied limitations:

30.1. Parliament or any State Legislature cannot pass any law that overrules a judgment; before any law is passed which may result in nullifying a decision, it is mandatory to remove the basis of the decision. Once the basis on which the earlier decision/order/judgment is delivered is removed, Parliament can then pass a law prospectively or retrospectively and with or without a validation clause.

30.2. Implied limitation not to pass contrary laws: the doctrine of harmonious construction applies when there is an accidental collision or conflict between two enactments and the Supreme Court has repeatedly read down one provision to give effect to other. Thus, both the provisions have to be given effect to. But if the collision or conflict is such that one provision cannot co-exist with another, then the latter provision must be struck down. In the present case, obtaining an Aadhaar number continues to be voluntary and explicitly declared to be so. Once the Aadhaar card is voluntary, it cannot be made mandatory by the impugned Section 139-AA of the Act. As long as the Aadhaar enactment holds the field, there is an implied limitation on the power of Parliament not to pass a contrary law.

31. Mr Datar also advanced two examples of such an implied limitation:

31.1. If Parliament, by a statute, makes medical service in rural areas an attractive option for doctors with incentives like preference for postgraduate admissions, higher pay/allowances, or even lower tax, such a scheme is voluntary and only those doctors who want those benefits may opt for it. While such a statute exists, it will not be permissible for Parliament to simultaneously amend the Medical Council Act, 1956 and state that absence of rural service will be a ground to invalidate the doctor's certificate of practice. Thus, what is statutorily voluntary under one parliamentary Act cannot be made statutorily compulsory under another parliamentary Act at the same time.

31.2. Second example given by Mr Datar was that making Aadhaar compulsory only for individuals with severe consequences of cancellation of PAN cards and a deeming provision that they had never applied for PAN is discriminatory when such a provision is not made mandatory for other assessees.

32. Mr Datar's next plea of violation of Article 14 was based by him on the application of the twin test of classification viz. there should be a reasonable classification and that this classification should have rational nexus with the objective sought to be achieved as held in *Ram Krishna Dalmia* v. *S.R. Tendolkar*[16]. Mr Datar conceded that first test was met as individual assessees form a separate class and, to this extent, there is a rational differentiation between individuals and other categories of assessees. The main brunt of his argument was on the second limb of the twin test of classification which

16 1959 SCR 279 : AIR 1958 SC 538

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according to him is not satisfied because there is no rational nexus with the object sought to be achieved.

33. Third argument of Mr Datar was that the affected persons by Section 139-AA are individuals who are professionals like lawyers, doctors, architects, etc. and lakhs of businessmen having small or micro enterprises. By imposing a draconian penalty of cancelling their PAN cards and deeming that they had never applied for them, there is a direct infringement to Article 19(1)(*g*). The consequences of not having a PAN card results in a virtual "civil death" and it will be impossible to carry out any business or professional activity under Rule 114-B of the Income Tax Rules, 1962 (hereinafter referred to as "the Rules"), it will not be possible to operate bank accounts with transactions above Rs 50,000, use credit/debit cards, purchase motor vehicles, purchase property, etc.

34. Elaborating this point, it was submitted by Mr Datar that once it is shown that the right under Article 19(1)(*g*) has been infringed, the burden shifts to the State to show that the restriction is reasonable, and in the interests of the public, under Article 19(6) of the Constitution. He referred to *Modern Dental College and Research Centre* v. *State of M.P.*[17], wherein this Court held that the correct test to apply in the context of Article 19(6) was the test of proportionality: (SCC pp. 412-13, para 60)

> "*60.* ... a limitation of a constitutional right will be constitutionally permissible if:
>
> (*i*) it is designated for a proper purpose;
>
> (*ii*) the measures undertaken to effectuate such a limitation are rationally connected to the fulfilment of that purpose;
>
> (*iii*) the measures undertaken are necessary in that there are no alternative measures that may similarly achieve that same purpose with a lesser degree of limitation; and finally
>
> (*iv*) there needs to be a proper relation ("*proportionality stricto sensu*" or "*balancing*") between the importance of achieving the proper purpose and the social importance of preventing the limitation on the constitutional right." (emphasis in original)

Mr Datar also submitted that even if the State succeeds in showing a proper purpose and a rational connection with the purpose, thereby meeting the test of Article 14, the impugned law clearly fails on clauses (*iii*) (narrow tailoring) and (*iv*) (balancing) of the proportionality test of the above decision.

35. Mr Datar submitted that the State has failed entirely to show that the cancellation of PAN cards as a consequence of not enrolling for Aadhaar with its accompanying draconian consequences for the economic life of an individual is narrowly tailored to achieving its goal of tax compliance. It is also submitted that in accordance with the arguments advanced above, the State's own data shows that the problem of duplicate PANs was minuscule,

17 (2016) 7 SCC 353 : 7 SCEC 1

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and the gap between the taxpayer base and the PAN card holding population can be explained by plausible factors other than duplicates and forgeries. He questioned the wisdom of legislature in compelling 99.6% of the taxpaying citizenry to enrol for Aadhaar (with the further prospect of seeding) in order to weed out the 0.4% of duplicate PAN cards, as it fails the proportionality test entirely.

36. On the principle of proportionality, Mr Datar submitted that this principle was applied in *Ram Krishna Dalmia case*[16] as per the following passage: (AIR p. 548, para 11)

> "*11.* ... (*d*) that the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest;
>
> (*e*) that in order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation;"

37. Basic premise of the submissions of Mr Shyam Divan, learned Senior Advocate, was also the same as projected by Mr Datar. He insisted that Section 139-AA of the Act, which had made Aadhaar mandatory for income tax assessees, is unconstitutional. However, in his endeavour to plead that the provision be declared unconstitutional, he approached the subject from an altogether different premise, giving another perception to the whole issue. His basic submission was that every individual or citizen in this country has complete control over his/her body and the State cannot insist any person from giving his/her finger tips or iris of eyes, as a condition precedent to enjoy certain rights. He pointed out that all the petitioners in his writ petition were holding PAN cards and were income tax assessees but had not enrolled under Aadhaar Scheme. They were the conscientious persons in the society and did not want to give away their finger tips or iris, being conscientious objectors, that too, to private persons who were engaged as contractors/private enrollers by the Government for undertaking the job of enrolment under the Aadhaar. It was submitted that the data given to such persons were not safe and there was huge possibility that the same may be leaked. Further, requirement of giving Aadhaar number for every transaction amounted to surveillance by the State and the entire profile of such persons would be available to the State. He also pointed out that with today's technology, there was every possibility of copying the fingerprint and even the iris images. Various cases of fake Aadhaar card had come to light and even as per the Government's statement, 3.48 lakh bogus Aadhaar cards were cancelled. There were instances of Aadhaar leak as well. Even hacking was possible. He conceded that these were the issues within the realm of "Right to Privacy" which were to be decided by the Constitution Bench. However, according to him, various orders passed by this Court in those petitions clearly reflect that the Court had given the

16 *Ram Krishna Dalmia* v. *S.R. Tendolkar*, 1959 SCR 279 : AIR 1958 SC 538

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directions that Aadhaar Scheme had to be voluntary; there would not be any illegal implants; and no one would suffer any consequences if he does not enrol himself under the Aadhaar Scheme. He also submitted that even the Aadhaar Act was voluntary in nature which creates rights for citizens and not obligations. According to him, the Aadhaar Act envisages free consent for getting certain benefits under social welfare schemes of the Government. On the other hand, Section 139-AA of the Act is compulsory and coercive. Pointing out that if Aadhaar number is not mentioned in the income tax returns, the effect provided under Section 139-AA of the Act is that the PAN card held by such a person would itself become invalid and inoperative which will lead to various adverse consequences inasmuch as for many other purposes as well, PAN card is used. He referred to Sections 206-AA, 196-J, 271-F and 272-B of the Act and Rule 114-B of the Rules to demonstrate this. He also referred to the provisions of the Identification of Prisoners Act, 1920 which require a prisoner to give his fingerprints for record and submitted that making Aadhaar compulsory amounted to treating every person on a par with a prisoner.

38. On the aforesaid premise, Mr Divan articulated his legal submissions as under:

38.1. Section 139-AA of the Act is contrary to the concept of "limited Government".

38.2. The impugned provision coerces the individuals to part with their private information which was a part of human dignity and, thus, the said provision is violative of Article 21 of the Constitution as it offended human dignity.

38.3. The impugned provision creates the involvement which can be used for surveillance.

38.4. This provision converts right under the Aadhaar Act to duty under the Income Tax Act.

39. Elaborating on the argument predicated on the concept of "limited Government", Mr Divan submitted that the Constitution of India was the basic law or grund norm which ensures democratic governance in this country. Though a sovereign country, its governance is controlled by the provisions of the Constitution which sets parameters within which three wings of the State, namely, Legislature, Executive and Judiciary have to function. Thus, no wing of the State can breach the limitations provided in the Constitution which employs an array of checks and balances to ensure open, accountable Government where each wing of the State performs its actions for the benefit of the people and within its sphere of responsibility. The checks and balances are many and amongst them are the respective roles assigned by the Constitution to the Legislature, the Executive and the Judiciary. Under India's federal structure, with a distribution of legislative authority between the Union Government and the States, the fields of legislation and corresponding executive authority are also distributed between the Union and the States. Provisions in the Constitution such as the fundamental rights chapter (Part III) and the chapter relating to inter-State trade (Part XIII) also circumscribe the authority of the

State. These limitations on the power of the State support the notion of "limited Government". In this sense, the expression "limited Government" would mean that each wing of the State is restricted by the provisions of the Constitution and other laws and is required to operate within its legitimate sphere. Exceeding these limits would render the action of the State ultra vires the Constitution or a particular law.

40. Mr Divan further argued that the concept of "limited Government" may also be understood in a much broader and different sense. This notion of a limited Government is qua the citizenry as a whole. There are certain things that the State simply cannot do, because the action fundamentally alters the relationship between the citizens and the State. The wholesale collection of biometric data including fingerprints and storing it at a Central depository per se puts the State in an extremely dominant position in relation to the individual citizen. Biometric data belongs to the individual concerned and the State cannot collect or retain it to be used against the individual or to his or her prejudice in the future. Further, the State cannot put itself in a position where it can track an individual and engage in surveillance. The State cannot deprive or withhold the enjoyment of rights and entitlements by an individual or make such entitlements conditional on a citizen parting with her biometrics.

41. Mr Divan referred to the judgment of this Court in *State of M.P.* v. *Bharat Singh*[18] where the concept of limited Government is highlighted in the following manner: (AIR pp. 1173-74, para 5)

> "*5.* ... All executive action which operates to the prejudice of any person must have the authority of law to support it, and the terms of Article 358 do not detract from that rule. Article 358 expressly authorises the State to take legislative or executive action provided such action was competent for the State to make or take, but for the provisions contained in Part III of the Constitution. Article 358 does not purport to invest the State with arbitrary authority to take action to the prejudice of citizens and others: it merely provides that so long as the proclamation of emergency subsists laws may be enacted, and executive action may be taken in pursuance of lawful authority, which if the provisions of Article 19 were operative would have been invalid. Our federal structure is founded on certain fundamental principles: (*1*) the sovereignty of the people with limited Government authority i.e. the Government must be conducted in accordance with the will of the majority of the people. The people govern themselves through their representatives, whereas the official agencies of the executive Government possess only such powers as have been conferred upon them by the people; (*2*) There is a distribution of powers between the three organs of the State — Legislative, Executive and Judicial — each organ having some check direct or indirect on the other; and (*3*) the rule of law which includes judicial review of arbitrary executive action. As pointed out by Dicey in his *Introduction to the Study of the Law of the Constitution*, 10th Edn., at p. 202, the expression "rule of law" has

18 AIR 1967 SC 1170 : (1967) 2 SCR 454

three meanings, or may be regarded from three different points of view. "It means, in the first place, the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the Government." At p. 188 Dicey points out:

> 'In almost every continental community the executive exercises far wider discretionary authority in the matter of arrest, of temporary imprisonment, of expulsion from its territory, and the like, than is either legally claimed or in fact exerted by the Government in England: and a study of European politics now and again reminds English readers that wherever there is discretion there is room for arbitrariness, and that in a republic no less than under a monarchy discretionary authority on the part of the Government must mean insecurity for legal freedom on the part of its subjects.'

> We have adopted under our Constitution not the continental system but the British system under which the rule of law prevails. Every Act done by the Government or by its officers must, if it is to operate to the prejudice of any person must, be supported by some legislative authority."

Relying on the aforesaid observations, Mr Divan submitted that the recognition of the distinction between an individual or person and the State is the single most important factor that distinguishes a totalitarian State from one that respects individuals and recognises their special identity and entitlement to dignity. The Indian Constitution does not establish a totalitarian State but creates a State that is respectful of individual liberty and constitutionally guaranteed freedoms. The Constitution of India is not a charter of servitude.

42. Proceeding further, another submission of Mr Divan, as noted above, was that Section 139-AA which coerces the individuals to part with their personal information was unconstitutional. He submitted that a citizen is entitled to enjoy all these rights including social and civil rights such as the right to receive an education, a scholarship, medical assistance, pensions and benefits under government schemes without having to part with his or her personal biometrics. An individual's biometrics such as fingerprints and iris scan are the property and entitlement of that individual and the State cannot coerce an individual or direct him or her to part with biometrics as a condition for the exercise of rights or the enjoyment of entitlements. Every citizen has a basic right to informational self-determination and the State cannot exercise dominion over a citizen's proprietary information either in individual cases or collectively so as to place itself in a position where it can aggregate information and create detailed profiles of individuals or facilitate this process. The Constitution of India is not a charter for a Police State which permits the State to maintain cradle to grave records of the citizenry. No democratic country in the world has devised a system similar to Aadhaar which operates like an electronic leash to tether every citizen from cradle to grave. There can be no question of free consent in situations where an individual is being coerced to part with its biometric information (*a*) to be eligible for welfare schemes of the

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State; and/or (*b*) under the threat of penal consequences. In other words, the State cannot compel a person to part with biometrics as a condition precedent for discharge of the State's constitutional and statutory obligations. In support of his submission that there cannot be coercive measures on the part of the Government to part with such information and it has to be voluntary and based on informed consent, Mr Divan referred to the following judgments:

42.1. *National Legal Services Authority* v. *Union of India*[19]: (SCC p. 491, para 75)

> "*75.* Article 21, as already indicated, guarantees the protection of "personal autonomy" of an individual. In *Anuj Garg* v. *Hotel Assn. of India*[20] (SCC p. 15, paras 34-35), this Court held that personal autonomy includes both the negative right of not to be subject to interference by others and the positive right of individuals to make decisions about their life, to express themselves and to choose which activities to take part in. Self-determination of gender is an integral part of personal autonomy and self-expression and falls within the realm of personal liberty guaranteed under Article 21 of the Constitution of India."

42.2. *Sunil Batra* v. *Delhi Admn.*[21]: (SCC p. 519, para 55)

> "*55.* And what is "life" in Article 21? In *Kharak Singh case*[5], SCR p. 357 Subba Rao, J. quoted Field, J. in *Munn* v. *Illinois*[22] to emphasise the quality of life covered by Article 21: (*Kharak Singh case*[5], AIR p. 1305, para 31)
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> > '*31.* ... "*50.* ... Something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body by the amputation of an arm or leg, or the putting out of an eye, or the destruction of any other organ of the body through which the soul communicates with the outer world." (*Munn case*[22], SCC OnLine US SC para 50)'
>
> A dynamic meaning must attach to life and liberty."

42.3. *Aruna Ramachandra Shanbaug* v. *Union of India*[23]: (SCC pp. 488 & 510, paras 25 & 93)

> "*25.* Mr T.R. Andhyarujina, learned Senior Counsel whom we had appointed as Amicus Curiae, in his erudite submissions explained to us the law on the point. He submitted that in general in common law it is the right of every individual to have the control of his own person free from all restraints or interferences of others. Every human being of adult

19 (2014) 5 SCC 438
20 (2008) 3 SCC 1
21 (1978) 4 SCC 494 : 1979 SCC (Cri) 155
5 *Kharak Singh* v. *State of U.P.*, AIR 1963 SC 1295 : (1963) 2 Cri LJ 329 : (1964) 1 SCR 332
22 1876 SCC OnLine US SC 4 : 24 L Ed 77 : 94 US 113 (1877)
23 (2011) 4 SCC 454 : (2011) 2 SCC (Civ) 280 : (2011) 2 SCC (Cri) 294

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years and sound mind has a right to determine what shall be done with his own body. In the case of medical treatment, for example, a surgeon who performs an operation without the patient's consent commits assault or battery. It follows as a corollary that the patient possesses the right not to consent i.e. to refuse treatment. (In the United States this right is reinforced by a constitutional right of privacy). This is known as the principle of self-determination or informed consent. Mr Andhyarujina submitted that the principle of self-determination applies when a patient of sound mind requires that life support should be discontinued. The same principle applies where a patient's consent has been expressed at an earlier date before he became unconscious or otherwise incapable of communicating it as by a "living will" or by giving written authority to doctors in anticipation of his incompetent situation.

* * *

93. Rehnquist, C.J. noted[24] that in law even touching of one person by another without consent and without legal justification was a battery, and hence illegal. The notion of bodily integrity has been embodied in the requirement that informed consent is generally required for medical treatment. As observed by Cardozo, J. while on the Court of Appeals of New York:

> 'Every human being of adult years and sound mind has a right to determine what shall be done with his own body, and a surgeon who performs an operation without his patient's consent commits an assault, for which he is liable in damages.'

Vide *Schloendorff* v. *Society of New York Hospital*[25], NY at pp. 129-30: NE at p. 93. Thus the informed consent doctrine has become firmly entrenched in American Tort Law. The logical corollary of the doctrine of informed consent is that the patient generally possesses the right not to consent, that is, to refuse treatment."

43. Mr Divan, thus, submitted that the right to life covers and extends to a person's right to protect his or her body and identity from harm. The right to life extends to allowing a person to preserve and protect his or her fingerprints and iris scan. The strongest and most secure manner of a person protecting this facet of his or her bodily integrity and identity is to retain and not part with fingerprints/iris scan. He argued that the right to life under Article 21 permits every person to live life to the fullest and to enjoy freedoms guaranteed as fundamental rights, constitutional rights, statutory rights and common law rights. He also argued that the constitutional validity of a statutory provision must be judged by assessing the effect the impugned provision has on fundamental rights. The effect of the impugned provision is to coerce persons into parting with their fingerprints and iris scan and lodging these personal

24 *Cruzan* v. *Missouri Deptt. of Health*, 1990 SCC OnLine US SC 123 : 111 L Ed 2d 224 : 497 US 261 (1990)

25 211 NY 125 : 105 NE 92 (1914)

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and intimate aspects of an individual's identity with the State as part of a programme that is in the petitioner's view wholly illegitimate and the validity of which is pending before the Constitution Bench.

44. Expressing his grave fear and misuse of personal information parted with by the citizenry in the form of biometrics i.e. fingerprints and iris scan, Mr Divan made a passionate plea that requirement of enrolment for Aadhaar is designed to facilitate and encourage private sector operators to create applications that depend upon the Aadhaar database for the purposes of authentication/verification. This would mean that non-governmental, private sector entities such as banks, employers, any point of payment, taxi services, airlines, colleges, schools, movie theatres, clubs, service providers, travel companies, etc. will all utilise the Aadhaar database and may also insist upon an Aadhaar number or Aadhaar authentication. This would mean that at every stage in an individual's daily activity his or her presence could be traced to a location in real time. One of the purposes of Aadhaar as projected by the respondents is that it will be a single point verification for KYC (Know Your Customer). This is permissible and indeed contemplated by the impugned Act. Given the very poor quality of scrutiny of documents by private enrollers and enrolment agencies (without any governmental supervision) means that the more rigorous KYC process at present being employed by banks and other financial institutions will yield to a system which depends on a much weaker database. This would eventually imperil the integrity of the financial system and also threaten the economic sovereignty of the nation. According to him, Aadhaar Act does not serve as an identity as incorrectly projected by the respondents but serves as a method of identification. Every citizen-State and citizen-service provider interaction requiring identification is sought to be captured and retained by the Government at a Central base and a whole ecology developed that would require reference to this Central database on multiple occasions in course of the day. He argued that this exercise of enrolment impermissibly creates the foundation for real time, continuous and pervasive identification of citizens in breach of the freedoms guaranteed under the Constitution.

45. Another submission of Mr Divan was that object behind Section 139-AA of the Act was clearly discriminatory inasmuch as it creates two classes: one class of those persons who volunteer to enrol themselves under Aadhaar Scheme and provide the particulars in their income tax returns and second category of those who refuse to do so. This provision by laying down adverse consequences for those who do not enrol becomes discriminatory qua that class and, therefore, is violative of Article 14 of the Constitution. Another limb of his submission was that it also creates an artificial class of those who object to such a provision of enrolment under Aadhaar. According to him, this would be violative of equality clause enshrined in Article 14 of the Constitution and in support of this submission, he relied upon the judgment of this Court in

Nagpur Improvement Trust v. *Vithal Rao*[26]. Paras 21, 22 and 26 read as under: (SCC pp. 505-06)

"*21.* The first point which was raised was: whether it is the State which is the acquiring authority or it is the Improvement Trust which is the acquiring authority, under the Improvement Act. It seems to us that it is quite clear, especially in view of Section 17-A as inserted by Para 6 of the Schedule, that the acquisition will be by the Government and it is only on payment of the cost of acquisition to the Government that the lands vest in the Trust. It is true that the acquisition is for the Trust and may be at its instance, but nevertheless the acquisition is by the Government.

22. If this is so, then it is quite clear that the Government can acquire for a housing accommodation scheme either under the Land Acquisition Act or under the Improvement Act. If this is so, it enables the State Government to discriminate between one owner equally situated from another owner.

* * *

26. It is now well settled that the State can make a reasonable classification for the purpose of legislation. It is equally well settled that the classification in order to be reasonable must satisfy two tests: (*i*) the classification must be founded on intelligible differentia, and (*ii*) the differentia must have a rational relation with the object sought to be achieved by the legislation in question. In this connection it must be borne in mind that the object itself should be lawful. The object itself cannot be discriminatory, for otherwise, for instance, if the object is to discriminate against one section of the minority the discrimination cannot be justified on the ground that there is a reasonable classification because it has rational relation to the object sought to be achieved."

46. Mr Divan also relied upon the judgment in *Subramanian Swamy* v. *CBI*[27]. Paras 58 and 59 read as under: (SCC pp. 725-26)

"*58.* The Constitution permits the State to determine, by the process of classification, what should be regarded as a class for purposes of legislation and in relation to law enacted on a particular subject. There is bound to be some degree of inequality when there is segregation of one class from the other. However, such segregation must be rational and not artificial or evasive. In other words, the classification must not only be based on some qualities or characteristics, which are to be found in all persons grouped together and not in others who are left out but those qualities or characteristics must have a reasonable relation to the object of the legislation. Differentia which is the basis of classification must be sound and must have reasonable relation to the object of the legislation. If the object itself is discriminatory, then explanation that classification is reasonable having rational relation to the object sought to be achieved is immaterial.

26 (1973) 1 SCC 500
27 (2014) 8 SCC 682 : (2014) 6 SCC (Cri) 42 : (2014) 3 SCC (L&S) 36

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59. It seems to us that classification which is made in Section 6-A on the basis of status in government service is not permissible under Article 14 as it defeats the purpose of finding prima facie truth into the allegations of graft, which amount to an offence under the PC Act, 1988. Can there be sound differentiation between corrupt public servants based on their status? Surely not, because irrespective of their status or position, corrupt public servants are corrupters of public power. The corrupt public servants, whether high or low, are birds of the same feather and must be confronted with the process of investigation and inquiry equally. Based on the position or status in service, no distinction can be made between public servants against whom there are allegations amounting to an offence under the PC Act, 1988."

47. In fine, submission of Mr Divan was that save and except by "reading down", Section 139-AA of the Act is unworkable. This is because Aadhaar by its very design and by its statute is "voluntary" and creates a right in favour of a resident without imposing any duty. There is no compulsion under the Aadhaar Act to enrol or obtain a number. If a person chooses not to enrol, at the highest, in terms of the Aadhaar Act, he or she may be denied access to certain benefits and services funded through the Consolidated Fund of India. When the Aadhaar enrolment procedure is supposedly based on informed free consent and is voluntary a person cannot be compelled by another law to waive free consent so as to alter the voluntary nature of enrolment that is engrafted in the parent statute. The right of a resident under the parent Act cannot be converted into a duty so long as the provisions of the Aadhaar Act cannot be converted into a duty so long as the provisions of the Aadhaar Act remain as they are. Argument was that Section 139-AA be read down to hold that it is only voluntary provision by taking out the sting of mandatoriness contained therein and there is no compulsion on any person to give Aadhaar number.

48. We may mention at this stage itself that on conclusion of his arguments, Mr Divan was put a specific query that most of the arguments presented by him endeavoured to project aesthetics of law and jurisprudence which had the shades of "Right to Privacy" jurisprudence which could not be gone into by this Bench as this very aspect was already referred to the Constitution Bench. Mr Divan was candid in accepting this fact and his submission was that in these circumstances, the option for this Bench was to stay the operation of proviso to sub-section (2) of Section 139-AA of the Act till the decision is rendered by the Constitution Bench.

49. Mr Salman Khurshid, learned Senior Counsel who appeared in Writ Petition (Civil) No. 247 of 2017, while adopting the arguments of Mr Datar and Mr Divan, made an additional submission, invoking the principle of right to live with dignity which, according to him, was somewhat different from the right to privacy. He submitted that although dignity inevitably includes privacy, the former has several other dimensions which need to be explored as well. In his submissions, the test to identify whether certain data collected about individuals is intrusive or merely expansive is to consider whether it causes

embarrassment, indignity or invasion of privacy. Thus, the concept of dignity is quite distinct from that of privacy. Privacy is a conditional concept. One has it only to the extent that one's circumstances allow for it, as a matter of fact and law. While it is widely accepted that a situation may occur where a person may not have any right to privacy whatsoever, dignity is an inherent possession of every person, regardless of circumstance. In that sense, Dignity is an inherent dimension of equality, the basis of John Rawls "Theory of Justice". The Social Contract Theory propounded by Rousseau remains the ground on which John Rawls developed the model of the Original Position in which the contours of the compact are conceived. Anything that reduces the personality of the participant, such as diluting the human element and substituting it with a number or biometric data, virtually destroys the model. Dignity is an immutable value, held in equal measure at all times by all people, a quality privacy does not share. No court has ever held that a person can be stripped entirely of his/her dignity. The concept of dignity is deeper than that of privacy and its boundaries do not depend upon the circumstance of any individual and thus the State cannot legitimately fully infringe upon it. He pointed out that in *M. Nagaraj* v. *Union of India*[28], this Court has, thus, elucidated the concept of right to dignity in the following manner: (SCC pp. 242 & 244, paras 20 & 26)

> "*20.* ... This Court has in numerous cases deduced fundamental features which are not specifically mentioned in Part III on the principle that certain unarticulated rights are implicit in the enumerated guarantees.
>
> * * *
>
> *26.* ... It is the duty of the State not only to protect the human dignity but to facilitate it by taking positive steps in that direction. No exact definition of human dignity exists. It refers to the intrinsic value of every human being, which is to be respected. It cannot be taken away. It cannot give (sic be given). It simply is. Every human being has dignity by virtue of his existence. The constitutional courts in Germany, therefore, see human dignity as a fundamental principle within the system of the basic rights. This is how the doctrine of basic structure stands evolved under the German Constitution and by interpretation given to the concept by the constitutional courts."

50. After explaining the aforesaid distinction between the two concepts, Mr Khurshid argued that the impugned provision in the Income Tax Act was violative of right to live with dignity guaranteed under Article 21 of the Constitution. He submitted that right to life and liberty mentioned in Article 21 of the Constitution encompasses within its right to live with dignity as has been held in a catena of cases by this Court. He explained in detail as to how the concept of dignity was dealt with by different jurists from time to time including Kant who identified dignity with autonomy and Dworkin who exemplified the doctrine of dignity on the conception of living well, which itself is based on two principles of dignity, namely, self-respect and authenticity. In this sense,

28 (2006) 8 SCC 212 : (2007) 1 SCC (L&S) 1013

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he submitted that living with dignity involves giving importance to living our life well and acting independently from the personal sense of character and commitment to standards and ideals we stand for. The mandatory requirement of Aadhaar card makes an unwarranted intrusion in the importance we give to our bodily integrity in living our life well and compels human beings to express themselves the way the State wants. He also submitted that the features relevant for upholding the dignity of a human being will be severely compromised with when the data are cross-referenced with data relating to other spheres of life and are disclosed to third parties through different data collected for varied reasons. This would take place without the knowledge and consent of the poor assessees who are apparently required to mandatorily obtain the Aadhaar card only for the purposes of payment of taxes.

51. Mr Khurshid also raised doubts and fears about the unauthorised disclosure of the information given by these persons who enroll themselves under Aadhaar and submitted that in the absence of proper mechanism in place to check unauthorised disclosure, the impugned provision of making Aadhaar card mandatory for filing tax returns cannot be said to be consistent with the democratic ideals. Mr Khurshid also submitted that there was no compelling State interests in having such a provision introducing compulsive element and depriving from erstwhile voluntary nature of Aadhaar Scheme. According to him, the "proportionality of means" concept is an essential one since integrating data beyond what is really necessary for the stated purpose is clearly unconstitutional. He submitted that in light of the decision in *Gobind* v. *State of M.P.*[29], which has been the position of this Court since the past forty-two years and has been cited with approval often, it is humbly submitted that the State has the onerous burden of justifying the impugned mandatory provision. The "compelling State interest" justification is only one aspect of the broader "strict scrutiny" test, which was applied by this Court in *Anuj Garg* v. *Hotel Assn. of India*[20]. The other essential facet is to demonstrate "narrow tailoring" i.e. that the State must demonstrate that even if a compelling interest exists, it has adopted a method that will infringe in the narrowest possible manner upon individual rights. He submitted that neither is there any compelling State interest warranting such a harsh mandatory provision, nor has it been narrowly tailored to meet the object, if any.

52. In this hue, Mr Khurshid also submitted that Section 139-AA of the Act violates the Rule of Law. Elaborating his argument, he submitted that a legal system which in general observes the Rule of Law treats its people as persons, in the sense that it attempts to guide their behaviour through affecting the circumstances of their action. It, thus, presupposes that they are rational autonomous creatures and attempts to affect their actions and habits by affecting their deliberations. It satisfies men's craving for reasonable certainty of form as well as substance, and for dignity of process as well as dignity of result. On the other hand, when the rule of law is violated, it may be either in the form of leading to uncertainty or it may lead to frustrated and disappointed expectations. It leads to the first when the law does not enable

29 (1975) 2 SCC 148 : 1975 SCC (Cri) 468
20 (2008) 3 SCC 1

people to foresee future developments or to form definite expectations. It leads to frustrated expectations when the appearance of stability and certainty which encourages people to rely and plan on the basis of the existing law is shattered by retroactive law-making or by preventing proper law enforcement, etc. The evils of frustrated expectations are greater. Quite apart from the concrete harm they cause they also offend dignity in expressing disrespect for people's autonomy. The law in such cases encourages autonomous action only in order to frustrate its purpose. When such frustration is the result of human action or the result of the activities of social institutions then it expresses disrespect. Often it is analogous to entrapment: one is encouraged innocently to rely on the law and then that assurance is withdrawn and one's very reliance is turned into a cause of harm to one. Just as in the instant case, the impugned provision came into force when the order of the Court that Aadhaar card is not mandatory, still continues to operate.

53. In the alternative, another submission of Mr Khurshid was that Section 139-AA of the Act was retrospective in nature as per the proviso to sub-section (2) thereof. As per the said proviso, on failure to give Aadhaar number, the consequence was not only to render the PAN card invalid prospectively but from the initial date of issuance of PAN card in view of the expression "as if the person had not applied for Permanent Account Number" which would mean that PAN card would be invalidated by rendering the same void ab initio i.e. from retrospective effect. Such a retrospective effect, according to him, was violative of Article 20(1) of the Constitution. Further, retrospective operation is not permissible without separate objects for such operations as held in *Dayawati* v. *Inderjit*[30]. In conclusion, the learned Senior Counsel submitted that the law regarding mandatory requirement of Aadhaar card is a hasty piece of legislation without much thought going into it. It is submitted that the Aadhaar card cannot be made mandatory for filing tax returns with such far-reaching consequences for non-compliance, unless and until suitable measures are put in place to ensure that the dignity of the assessees is not compromised with. The generalisation, centralisation and disclosure of biometric information, however, accidental it might be, has to be effectively controlled and mechanisms have to be put in place to inquire and penalise those found guilty of disclosing such information. The need to do so is extremely crucial in view of the fact that biometric systems may be bypassed, hacked, or even fail. Unless the same is done, the identity of the citizens will be reduced to a collection of instrumentalised markers. Further, the organisations and authorities allowed to conduct it should be strictly defined. There has to be a strict control over any systematic use of common identifiers. No such re-grouping of data can be allowed as could lead to the use of biometrics for exclusion of vulnerable groups. Brown considers surveillance as both a discursive and a material practice that reifies bodies around divisive lines. Surveillance of certain communities has been both social as well as political norm. He further submitted that this Court cannot lose sight of the fact that the data collected under the impugned provision may be used to carry out

30 (1966) 3 SCR 275 : AIR 1966 SC 1423

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discriminatory research and sort subjects into groups for specific reasons. The fact that the impugned provision creates an apprehension in the minds of the people, legitimate and reasonable enough with no preventive mechanism in place, is in itself a violation of the right to life and personal liberty as enshrined under the Constitution.

54. Mr Anando Mukherjee, learned counsel, appeared in Writ Petition (Civil) No. 304 of 2017, while reiterating the submissions of earlier counsel, argued that Section 139-AA of the Act was confused, self-destructive and self-defeating provision for the reason that on the one hand, it had an effect of making enrolment into Aadhaar mandatory, but, on the other hand, by virtue of the Explanation contained in the provision itself, it is kept voluntary and as a matter of right for the same set of individuals and for the purposes of Section 139-AA. He also submitted that there was a conflict between Section 139-AA of the Act and Section 29 of the Aadhaar Act inasmuch as Section 29 puts a blanket embargo on using the core biometric information, collected or created under the Aadhaar Act for any purpose other than generation of Aadhaar numbers and authentication under the Aadhaar Act. Mr Mukherjee went to the extent of describing the impugned provision as colourable exercise of power primarily on the ground that when the Aadhaar Act is voluntary in nature, there was no question of making this very provision mandatory by virtue of Section 139-AA of the Act.

55. Appearing for the Union of India, Mr Mukul Rohatgi, learned Attorney General for India, put stiff resistance to the submissions advanced on behalf of the petitioners. In a bid to torpedo and pulverise the arguments as set forth on the side of the petitioners, the learned Attorney General pyramid his arguments in the following style:

55.1. In the first, Mr Rohatgi made few preliminary remarks. First such submission was that many contentions advanced by the counsel for the petitioners touch upon the question of right to privacy which had already been referred to the Constitution Bench and, therefore, those aspects were not required to be dealt with. In this behalf, he specifically referred to the following observations of this Court in its order dated 11-8-2015, which were made by the three-Judge Bench in *K.S. Puttaswamy* v. *Union of India*[6]: (SCC p. 741, para 12)

> "*12.* ... At the same time, we are also of the opinion *that the institutional integrity and judicial discipline require that pronouncement made by larger Benches of this Court cannot be ignored by the smaller Benches* without appropriately explaining the reasons for not following the pronouncements made by such larger Benches. With due respect to all the learned Judges who rendered the subsequent judgments—where right to privacy is asserted or referred to their Lordships concern for the liberty of human beings, we are of the humble opinion that there appears to be certain amount of apparent unresolved contradiction in the law declared by this Court." (emphasis supplied)

6 (2015) 8 SCC 735, 736-741 (paras 1-14)

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Notwithstanding these preliminary remarks, he rebutted the said argument based on Article 21, including right to privacy, by raising a plea that right to privacy/personal autonomy/bodily integrity is not absolute. He referred to the judgment of the United States Supreme Court in *Roe* v. *Wade*[31] wherein it was held: (SCC OnLine US SC para 44)

> "*44.* The privacy right involved, therefore, cannot be said to be absolute. In fact, it is not clear to us that the claim asserted by some amici that one has an unlimited right to do with one's body as one pleases bears a close relationship to the right of privacy previously articulated in the Court's decisions. The Court has refused to recognise an unlimited right of this kind in the past."

He also relied upon the judgment of this Court in *Sharda* v. *Dharmpal*[32] where the Court held that a matrimonial court has the power to order a person to undergo medical test. Passing of such an order by the Court would not be in violation of the right to personal liberty under Article 21 of the Indian Constitution.

55.2. His second preliminary submission was that insofar as challenge to the validity of Section 139-AA of the Act on other grounds is concerned, it is to be kept in mind that the constitutional validity of a statute could be challenged only on two grounds i.e. the legislature enacting the law was not competent to enact that particular law or such a law is violative of any of the provisions of the Constitution. In support, he referred to the various judgments of this Court. He, thus, submitted that no third ground was available to any of the petitioners to challenge the constitutional validity of a legislative enactment. According to him, the principle of proportionality should not be read into Article 14 of the Constitution, while taking support from the judgment in *K.T. Plantation (P) Ltd.* v. *State of Karnataka*[33], wherein it is held that plea of unreasonableness, arbitrariness, proportionality, etc. always raises an element of subjectivity on which a court cannot strike down a statute or a statutory provision.

55.3. The third introductory submission of the learned Attorney General was that the scope of judicial review in a fiscal statute was very limited and Section 139-AA of the Act, being a part of fiscal statute, following parameters laid down in *State of M.P.* v. *Rakesh Kohli*[34] had to be kept in mind: (SCC p. 327, para 32)

> "32. While dealing with constitutional validity of a taxation law enacted by Parliament or State Legislature, the court must have regard to the following principles:
>
> (*i*) there is always presumption in favour of constitutionality of a law made by Parliament or a State Legislature,

31 1973 SCC OnLine US SC 20 : 35 L Ed 2d 147 : 410 US 113 (1973)
32 (2003) 4 SCC 493
33 (2011) 9 SCC 1 : (2011) 4 SCC (Civ) 414
34 (2012) 6 SCC 312 : (2012) 3 SCC (Civ) 481

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(*ii*) no enactment can be struck down by just saying that it is arbitrary or unreasonable or irrational but some constitutional infirmity has to be found,

(*iii*) the court is not concerned with the wisdom or unwisdom, the justice or injustice of the law as Parliament and State Legislatures are supposed to be alive to the needs of the people whom they represent and they are the best Judge of the community by whose suffrage they come into existence,

(*iv*) hardship is not relevant in pronouncing on the constitutional validity of a fiscal statute or economic law, and

(*v*) in the field of taxation, the legislature enjoys greater latitude for classification."

56. In this hue, Mr Rohatgi also argued that the State enjoys the widest latitude where measure of economic regulations are concerned (see *State of Madras* v. *P.R. Sriramulu*[35], para 15) and that mala fides cannot be attributed to Parliament, as held in *G.C. Kanungo* v. *State of Orissa*[36] (para 11). Also, the courts approached the issue with the presumption of constitutionality in mind and that the legislature intends and correctly appreciates the need of its own people, as held in *Mohd. Hanif Quareshi* v. *State of Bihar*[37] (para 15).

57. On merits, the argument of Mr Rohatgi was that once the aforesaid basic parameters are kept in mind, the impugned provision passes the muster of constitutionality. Adverting to the issue of legislative competence, he referred to Articles 246 and 248 of the Constitution as well as Schedule VII List I Entry 82 and Entry 97 to the Constitution which empowers Parliament to legislate on the subject pertaining to income tax. Therefore, it could not be said that the impugned provision made was beyond the competence of Parliament. He also submitted that in any case residuary power lies with Parliament and this power to legislate is plenary, as held in *Synthetics and Chemicals Ltd.* v. *State of U.P.*[38]: (SCC pp. 144-45, para 56)

"*56.* On behalf of the State both Mr Trivedi and Mr Yogeshwar Prasad contended that regulatory power of the State was there and in order to regulate it was possible to impose certain disincentives in the form of fees or levies. Imposition of these imposts as part of regulatory process is permissible, it was submitted. Our attention was drawn to the various decisions where by virtue of "police power" in respect of alcohol the State has imposed such impositions. Though one would not be justified in adverting to any police power, it is possible to conceive sovereign power and on that sovereign power to have the power of regulation to impose such conditions so as to ensure that the regulations are obeyed and complied with. We would not like, however, to embark upon any theory of police

35 (1996) 1 SCC 345
36 (1995) 5 SCC 96
37 AIR 1958 SC 731
38 (1990) 1 SCC 109

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power because the Indian Constitution does not recognise police power as such. But we must recognise the exercise of sovereign power which gives the States sufficient authority to enact any law subject to the limitations of the Constitution to discharge its functions. Hence, the Indian Constitution as a sovereign State has power to legislate on all branches except to the limitation as to the division of powers between the Centre and the States and also subject to the fundamental rights guaranteed under the Constitution. The Indian State, between the Centre and the States, has sovereign power. The sovereign power is plenary and inherent in every sovereign State to do all things which promote the health, peace, morals, education and good order of the people. Sovereignty is difficult to define. This power of sovereignty is, however, subject to constitutional limitations. This power, according to some constitutional authorities, is to the public what necessity is to the individual. Right to tax or levy imposts must be in accordance with the provisions of the Constitution."

58. Rebutting the argument of Mr Datar that by making the impugned provision mandatory the legislature had acted contrary to the judgments of this Court, Mr Rohatgi argued that this argument was devoid of any merit on various counts: *First*, there was no judgment of this Court and the orders referred were only interim orders. *Secondly*, in any case, those orders were passed at a time when Aadhaar was being implemented as a scheme in administrative/executive domain and the Court was considering the validity of Aadhaar Scheme in that hue/background. Those orders have not been passed in the context of examining the validity of any legislative measure. *Thirdly*, no final view is taken in the form of any judgment that Aadhaar is unconstitutional and, therefore, there is no basis in existence which was required to be removed. *Fourthly*, Parliament was competent to pass the law and provide statutory framework to give legislative backing to Aadhaar in the absence of any such law which existed at that time. He, thus, submitted that there was no question of curing the alleged basis of judgment/interim orders by legislation. He specifically relied upon the following passage from the judgment in *Goa Foundation* v. *State of Goa*[39]: (SCC p. 616, para 24)

> "*24.* The principles on which first question would require to be answered are not in doubt. The power to invalidate a legislative or executive act lies with the Court. A judicial pronouncement, either declaratory or conferring rights on the citizens cannot be set at naught by a subsequent legislative act for that would amount to an encroachment on the judicial powers. However, the legislature would be competent to pass an amending or a validating act, if deemed fit, with retrospective effect removing the basis of the decision of the Court. Even in such a situation the courts may not approve a retrospective deprivation of accrued rights arising from a judgment by means of a subsequent legislation (*Madan Mohan Pathak* v. *Union of India*[12]). However, where the Court's judgment is purely

39 (2016) 6 SCC 602
12 (1978) 2 SCC 50 : 1978 SCC (L&S) 105

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declaratory, the courts will lean in support of the legislative power to remove the basis of a court judgment even retrospectively, paving the way for a restoration of the status quo ante. Though the consequence may appear to be an exercise to overcome the judicial pronouncement it is so only at first blush; a closer scrutiny would confer legitimacy on such an exercise as the same is a normal adjunct of the legislative power. The whole exercise is one of viewing the different spheres of jurisdiction exercised by the two bodies i.e. the judiciary and the legislature. The balancing act, delicate as it is, to the constitutional scheme is guided by the well-defined values which have found succinct manifestation in the views of this Court in *Bakhtawar Trust*[14]."

59. Mr Rohatgi thereafter read extensively from the counter-affidavit filed on behalf of the Union of India detailing the rational and objective behind introduction of Section 139-AA of the Act. He submitted that the provision aims to achieve, inter alia, the following objectives:

59.1. This provision was introduced to tackle the problem of multiple PAN cards to same individuals and PAN cards in the name of fictitious individuals are common medium of money laundering, tax evasion, creation and channelling of black money. PAN numbers in name of firm or fictitious persons as directors or shareholders are used to create layers of shell companies through which the aforesaid activities are done. A de-duplication exercise was done in the year 2006 and a large number of PAN numbers were found to be duplicate. The problem of some persons fraudulently obtaining multiple PANs and using them for making illegal transactions still exists. Overall 11.35 lakh cases of duplicate PAN/fraudulent PAN have been detected and accordingly such PANs have been deleted/deactivated. Out of this, around 10.52 lakh cases pertain to individual assessees. Total number of Aadhaar for individuals exceeds 113 crores whereas total number of PAN for individuals is around 29 crores. Therefore, whereas the Aadhaar Act applies to the entire population, the Income Tax Act applies to a much smaller subset of the population i.e. the taxpayers. In order to ensure *One PAN to One Person*, Aadhaar can be the sole criterion for allotment of PAN to individuals only after all existing PAN are seeded with Aadhaar and quoting of Aadhaar is mandated for new PAN applications. The counter-affidavit filed by the Union of India also gives the following instances of misuse of PAN:

(*a*) In NSDL scam of 2006, about one lakh bogus bank and demat accounts were opened through use of PANs. The real PAN owners were not aware of these accounts.

(*b*) As banks progressively started insisting on PANs for opening of bank accounts, unscrupulous operators managed multiple PANs for providing entries and operating undisclosed accounts for making financial transactions.

(*c*) Entry operators manage a large number of shell companies using duplicate PANs or PANs issued in the name of dummy directors and name

14 *Bakhtawar Trust* v. *M.D. Narayan*, (2003) 5 SCC 298

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lenders. As the persons involved as bogus directors are usually the same set of persons, linkage with Aadhaar would prevent such misuse. Further, it will also be expedient for the enforcement agencies to identify and red flag such misuses in future.

(*d*) Cases have also been found where multiple PANs are acquired by a single entity by dubious means and used for raising loans from different banks. In one such case at Ludhiana, multiple PANs were found acquired by a person in his individual name as well as in the name of his firms by dubious means. During investigation, he admitted to have acquired multiple PANs for raising multiple loans from banks and to avoid adverse CIBIL information. Prosecution has been launched by the Income Tax Department in this case under Sections 277-A, 278, 278-B of the Act in addition.

59.2. To tackle the problem of black money, Mr Rohatgi pointed out that the Second Report of the Special Investigation Team (SIT) on black money, headed by Justice M.B. Shah (Retd.), after observing the menace of corruption and black money, recommended as follows:

> "At present, for entering into financial/business transactions, persons have option to quote their PAN or UID or passport number or driving licence or any other proof of identity. However, there is no mechanism/ system at present to connect the data available with each of these independent proofs of ID. It is suggested that these databases be interconnected. This would assist in identifying multiple transactions by one person with different IDs."

The SIT in its Third Report has recommended the establishment of a Central KYC Registry. The rational for the SIT recommendations was to prove a verifiable and authenticable identity for all individuals and Aadhaar provides a mechanism to serve that purpose in a federated architecture without aggregating all the information at one place. The Committee headed by the Chairman, CBDT on "Measures to tackle black money in India and abroad" reveals that various authorities are dealing with the menace of money laundering being done to evade taxes under the garb of shell companies by the persons who hold multiple bogus PAN numbers under different names or variations of their names, providing accommodation entries to various companies and persons to evade taxes and introduce undisclosed and unaccounted income of those persons into their companies as share applications or loans and advances or booking fake expenses. These are tax frauds and devices which are causing loss to the revenue to the tune of thousands of crores.

59.3. Another objective is to curb the menace of shell companies. It is submitted in this regard that PAN is a basis of all the requirements in the process of incorporation of a company. Even an artificial juridical person like a company is granted PAN. It is required as an ID proof for incorporation of a company, applying for DIN, digital signature, etc. PAN is also required for opening a bank account in the name of a company or individuals. Basic documents required for obtaining a PAN are ID proof and address proof. It has

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been observed that these documents which are a basis of issuance of PAN could easily be forged and, therefore, PAN cards issued on the basis of such forged documents cannot be genuine and it can be used for various financial frauds/ crime. Aadhaar will ensure that there is no duplication of identity as biometric will not allow that. If at the time of opening of bank accounts itself, the more robust identity proof like Aadhaar had been used in place of PAN, the menace of mushrooming of non-descript/shell/jamakharchi/bogus companies would have been prevented. There is involvement of natural person in the complex web of shell companies only at the initial stage when the shareholders subscribe to the share capital of the shell company. After that many layers are created because there is company-to-company transaction and much more complex structure of shell company compromising the financial integration of nation is formed which makes it almost impossible to identify the real beneficiary (natural person) involved in these shell companies. These shell companies have been used for purpose of money laundering at a large scale. The fake PAN cards have facilitated the enormous growth of shell companies which were being used for layering of funds and illegal transfer of such funds to some other companies/ persons or parked abroad in the guise of remittances against import. The share capital of these shell companies are subscribed by fake shareholders through numerous bank accounts opened with the use of fake PAN cards at the initial stage.

59.4. According to the respondents, this provision will help in widening of tax base. It was pointed out that more than 113 crore people have registered themselves under Aadhaar. Adults coverage of Aadhaar is more than 99%. Aadhaar being a unique identification, the problem of bogus or duplicate PANs can be dealt with in a more systematic and foolproof manner. According to the respondent, in fact, it has already shown results as Aadhaar has led to weeding out duplicate and fakes in many welfare programmes such as PDS, MNREGA, LPG Pahal, old age pension, scholarships, etc. during the last two years and it has led to savings of approximately Rs 49,000 crores to the exchequer.

60. Mr Rohatgi also referred to that portions of the counter-affidavit which narrate the following benefits of Aadhaar seeding in PAN database:

Permanent Account Number (PAN)

60.1. PAN is a ten-digit alphanumeric number allotted by the Income Tax Department to any "person" who applies for it or to whom the Department allots the number without an application. One PAN for one person is the guiding principle for allotment of PAN. PAN acts as the identifier of taxable entity and aggregator of all financial transactions undertaken by the taxable entity i.e. "person".

Legal provisions relating to PAN

60.2. PAN is the key or identifier of all computerised records relating to the taxpayer. The requirement for obtaining of PAN is mandated through Section 139-A of the Act. The procedure for application for PAN is prescribed in Rule 114 of the Rules. The forms prescribed for PAN application are

Forms 49-A and 49-AA for Indian and foreign citizens/entities. Quoting of PAN has been mandated for certain transactions above specified threshold value in Rule 114-B of the Rules.

Uniqueness of PAN

60.3. For achieving the objective of one PAN to one assessee, it is required to maintain uniqueness of PAN. The uniqueness of PAN is achieved by conducting a de-duplication check on all already existing allotted PAN against the data furnished by new applicant. Under the existing system of PAN only demographic data is captured. De-duplication process is carried out using a phonetic algorithm whereby a Phonetic PAN (PPAN) is created in respect of each applicant using the data of applicant's name, father's name, date of birth, gender and status. By comparison of newly generated PPAN with existing set of PPANs of all assessees duplicate check is carried out and it is ensured that same person does not acquire multiple PANs or one PAN is not allotted to multiple persons. Due to prevalence of common names and large number of PAN holders, the demographic way of de-duplication is not foolproof. Many instances are found where multiple PANs have been allotted to one person or one PAN has been allotted to multiple persons despite the application of abovementioned de-duplication process. While allotment of multiple PANs to one person has the risk of diversion of income of person into several PANs resulting in evasion of tax, the allotment of same PAN to multiple persons results in wrong aggregation and assessment of incomes of several persons as one taxable entity represented by single PAN.

60.4. Presently verification of original documents in only 0.2% cases (200 out of 1,00,000 PAN applications) is done on a random basis which is quite less. In the case of Aadhaar, 100% verification is possible due to availability of online Aadhaar authentication service provided by the UIDAI. Aadhaar seeding in PAN database will make PAN allotment process more robust.

60.5. Seeding of Aadhaar number into PAN database will allow a robust way of de-duplication as Aadhaar number is de-duplicated using biometric attributes of fingerprints and iris images. The instance of a duplicate Aadhaar is almost non-existent. Further seeding of Aadhaar will allow the Income Tax Department to weed out any undetected duplicate PANs. It will also facilitate resolution of cases of one PAN allotted to multiple persons.

61. After stating the aforesaid purpose, rationale and benefits, the learned Attorney General submitted that the main provision is not violative of any constitutional rights of the petitioners. According to him, the provision was not discriminatory at all inasmuch as it was passed on reasonable classification, the two classes being taxpayers and non-taxpayers. He also submitted that it was totally misconceived that this provision had no rational nexus with the objective sought to be achieved in view of the various objectives and benefits which were sought to be achieved by seeding Aadhaar with PAN. Mr Rohatgi also referred to various orders and judgments of this Court whereunder use of Aadhaar was endorsed, encouraged or even directed. Following instances are cited.

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62. The importance and utility of Aadhaar for delivery of public services like PDS, curbing bogus admissions in schools and verification of mobile number subscribers has not only been upheld but endorsed and recommended by this Court.

63. This Court in *People's Union for Civil Liberties* v. *Union of India*[40] has approved the recommendations of the High-Powered Committee headed by Justice D.P. Wadhwa, which recommended linking of Aadhaar with PDS and encouraged the State Governments to adopt the same.

64. This Court in *State of Kerala* v. *Parent Teachers Assn. SNVUP School*[41] has directed use of Aadhaar for checking bogus admissions in schools with the following observations: (SCC p. 712, para 21)

> "*21*. We are, however, inclined to give a direction to the Education Department, State of Kerala to forthwith give effect to the Circular dated 12-10-2011 to issue UID cards to all the school children and follow the guidelines and directions contained in their circular. Needless to say, the Government can always adopt, in future, better scientific methods to curb such types of bogus admissions in various aided schools."

65. While monitoring the PILs relating to night shelters for the homeless and the right to food through the public distribution system, this Court has lauded and complimented the efforts of the State Governments for inter alia carrying out biometric identification of the head of family of each household to eliminate fictitious, bogus and ineligible BPL/AAY household cards.

66. A two-Judge Bench of this Court in *People's Union for Civil Liberties (PDS Matters)* v. *Union of India*[42] has held that computerisation is going to help the public distribution system in the country in a big way and encouraged and endorsed the digitisation of database including biometric identification of the beneficiaries. In fact, this Court had requested Mr Nandan Nilekani to suggest ways in which the computerisation process of PDS can be expedited.

67. In *People's Union for Civil Liberties* v. *Union of India*[43], this Court has also endorsed biometric identification of homeless persons so that the benefits like supply of food and kerosene available to persons who are below poverty line can be extended to the correct beneficiaries.

68. In *Lokniti Foundation* v. *Union of India*[44], this Court has disposed of the writ petition while approving the Aadhaar-based verification of existing and new mobile number subscribers and upon being satisfied that an effective process has been evolved to ensure identity verification.

69. Mr Sengupta, learned counsel arguing on behalf of UIDAI, made additional submissions specifically answering the doctrine of proportionality argument advanced by Mr Datar as well as on the aspect of informational self-

40 (2011) 14 SCC 331
41 (2013) 2 SCC 705 : (2013) 2 SCC (Cri) 858 : (2013) 2 SCC (L&S) 444 : 4 SCEC 847
42 (2013) 14 SCC 368
43 (2010) 5 SCC 318
44 (2017) 7 SCC 155

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determination. His submissions in this behalf were that proportionality should not be read into Article 14 of the Constitution and in any case no proportionality or other Article 14 violation had been made out in the instant case. He also argued that there is no absolute right to informational self-determination; to the extent such right may exist it is part of the right to privacy whose very existence contours are before the Constitution Bench of this Court.

70. Adverting to the doctrine of proportionality, Mr Sengupta referred to the judgments of this Court in *Modern Dental College and Research Centre*[17] wherein this doctrine is explained and applied and submitted that the doctrine is applied only in the context of Article 19(1)(g) and not Article 14 of the Constitution. He pointed out that proportionality is not the governing law even in the United Kingdom for claims analogous to Article 14 of the Constitution. His passionate submission was that proportionality supplanting traditional review in the European Court of Human Rights cases and not remaining applicable in traditional judicial review claims has caused immense confusion in British public law. Narrating the structure of Article 19, submission of Mr Sengupta was that freedoms which were enlisted under Article 19(1) were not the absolute freedoms and they were subject to reasonable restrictions, as provided under clauses (2) to (6) of Article 19 itself. It is because of this reason, while examining as to whether a particular measure violated any of the freedoms or was a reasonable restriction, balancing exercise was to be done by the courts and this balancing exercise brings the element of proportionality. However, this was not envisaged in Article 14 at all.

71. Coming to the impugned provision and referring to the penal consequences provided in the proviso to Section 139-AA(2) of the Act, Mr Sengupta argued that the test of whether penalty is proportionate is not the same as the doctrine of proportionality. Proportionate penalty is an incident of arbitrariness whereas there cannot be any arbitrariness qua a statute. He also submitted that on facts penalty provided in the impugned provision is deemed to be the same as that for not filing income tax return with valid PAN. He also argued that there was no violation of Article 14 inasmuch as classification had a reasonable nexus with the object enshrined in the impugned provision. It was open to the legislature to determine decrease of harm and act accordingly and the legislature does not have to tackle problem 100% for it to have a rational nexus. Since individual assessees are prone to the problem and financial frauds using fake PAN, whether individually or in the guise of legal persons, Aadhaar aims at tackling problem which exhibited a rational nexus with the object. According to Mr Sengupta, there was no discriminatory object inasmuch as the object is to weed out duplicate PANs that allow financial and tax fraud. Therefore, the provision is not discriminatory in nature.

72. Dealing with the argument of right to informational self-determination, the learned counsel submitted that as a matter of current practice in India, no absolute right to determine what information about oneself one wants to disclose; several pieces of personal information are required by law. The

17 *Modern Dental College and Research Centre* v. *State of M.P.*, (2016) 7 SCC 353 : 7 SCEC 1

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perils of comparative law in merely transplanting from German law; the need to develop an Indian understanding of privacy and self-determination in the Indian context. Even in German law, the judgment quoted by the petitioner does not demonstrate an untrammelled right to privacy or informational self-determination. The world over, information over oneself is the most critical element of privacy; the contours of which are to be determined by the Constitution Bench.

A caveat

73. Before we enter into the discussion and weigh the merits of arguments addressed on both sides, one aspect needs to be made absolutely clear, though it has been hinted earlier as well. Conscious of the fact that challenge to Aadhaar Scheme/legislation on the ground that it was violative of Article 21 of the Constitution is pending before the Constitution Bench and, therefore, this Bench could not have decided that issue, the counsel for the petitioners had submitted that they would not be pressing the issue of right to privacy. Notwithstanding the same, it was argued by Mr Divan, though in the process Mr Divan emphasised that he was touching upon other facets of Article 21. Likewise, Mr Salman Khurshid while arguing that the impugned provision was violative of Article 21, based his submission on right to human dignity as a facet of Article 21. He also emphasised that the concept of human dignity was different from right to privacy. We have taken note of these arguments above. However, we feel all these aspects argued by the petitioners overlap with privacy issues as different aspects of Article 21 of the Constitution.

74. Right to be let alone has the shades of right to privacy and it is so held by the Court in *R. Rajagopal* v. *State of T.N.*[45] (SCC pp. 649-51, para 26)

> "26. We may now summarise the broad principles flowing from the above discussion:
>
> (*1*) The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a "right to be let alone". A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child-bearing and education among other matters. None can publish anything concerning the above matters without his consent — whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. Position may, however, be different, if a person voluntarily thrusts himself into controversy or voluntarily invites or raises a controversy.
>
> (2) The rule aforesaid is subject to the exception, that any publication concerning the aforesaid aspects becomes unobjectionable if such publication is based upon public records including court records. This is for the reason that once a matter becomes a matter of public record, the right to privacy no longer subsists and it becomes a

45 (1994) 6 SCC 632

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legitimate subject for comment by press and media among others. We are, however, of the opinion that in the interests of decency [Article 19(2)] an exception must be carved out to this rule viz. a female who is the victim of a sexual assault, kidnap, abduction or a like offence should not further be subjected to the indignity of her name and the incident being publicised in press/media.

(3) There is yet another exception to the rule in (1) above — indeed, this is not an exception but an independent rule. In the case of public officials, it is obvious, right to privacy, or for that matter, the remedy of action for damages is simply not available with respect to their acts and conduct relevant to the discharge of their official duties. This is so even where the publication is based upon facts and statements which are not true, unless the official establishes that the publication was made (by the defendant) with reckless disregard for truth. In such a case, it would be enough for the defendant (member of the press or media) to prove that he acted after a reasonable verification of the facts; it is not necessary for him to prove that what he has written is true. Of course, where the publication is proved to be false *and* actuated by malice or personal animosity, the defendant would have no defence and would be liable for damages. It is equally obvious that in matters not relevant to the discharge of his duties, the public official enjoys the same protection as any other citizen, as explained in (1) and (2) above. It needs no reiteration that judiciary, which is protected by the power to punish for contempt of court and Parliament and legislatures protected as their privileges are by Articles 105 and 104 respectively of the Constitution of India, represent exceptions to this rule.

(4) So far as the Government, local authority and other organs and institutions exercising governmental power are concerned, they cannot maintain a suit for damages for defaming them.

(5) Rules 3 and 4 do not, however, mean that the Official Secrets Act, 1923, or any similar enactment or provision having the force of law does not bind the press or media.

(6) There is no law empowering the State or its officials to prohibit, or to impose a prior restraint upon the press/media." (emphasis in original)

So is the right to informational self-determination, as specifically spelled out by the US Supreme Court in *United States Deptt. of Justice* v. *Reporters Committee for Freedom of the Press*[46]. Because of the aforesaid reasons and keeping in mind the principle of judicial discipline, we have made conscious choice not to deal with these aspects and it would be for the parties to raise these issues before the Constitution Bench. Accordingly, other arguments based on Articles 14 and 19 of the Constitution as well as competence of the legislature to enact such law are being examined.

46 1989 SCC OnLine US SC 57 : 103 L Ed 2d 774 : 489 US 749 (1989)

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75. We have deeply deliberated on the arguments advanced by various counsel appearing for different petitioners as well as counter-submissions made by the counsel appearing on behalf of the State. Undoubtedly, the issue that confronts us is of seminal importance. In recent times, issues about the propriety, significance, merits and demerits have generated lots of debate among intelligentsia. The Government claims that this provision is introduced in the statute to achieve laudable objectives and it is in public interest. It is felt that this technology can solve many development challenges. The petitioners argue that the move is impermissible as it violates their fundamental rights. It falls in the category of, what Ronald Dworkin calls, "hard cases". Nevertheless, the duty of the Court is to decide such cases as well and give better decision. While undertaking this exercise of judicial review, let us first keep in mind the width and extent of power of judicial review of a legislative action. The Court cannot question the wisdom of the legislature in enacting a particular law. It is required to act within the domain available to it.

Scope of judicial review of the legislative Act

76. Under the Constitution, Supreme Court as well as High Courts are vested with the power of judicial review of not only administrative acts of the executive but legislative enactments passed by the legislature as well. This power is given to the High Courts under Article 226 of the Constitution and to the Supreme Court under Article 32 as well as Article 136 of the Constitution. At the same time, the parameters on which the power of judicial review of administrative act is to be undertaken are different from the parameters on which validity of legislative enactment is to be examined. No doubt, in exercises of its power of judicial review of legislative action, the Supreme Court, or for that matter, the High Courts can declare law passed by Parliament or the State Legislature as invalid. However, the power to strike down primary legislation enacted by the Union or the State Legislatures is on limited grounds. Courts can strike down legislation either on the basis that it falls foul of federal distribution of powers or that it contravenes fundamental rights or other constitutional rights/provisions of the Constitution of India. No doubt, since the Supreme Court and the High Courts are treated as the ultimate arbiter in all matters involving interpretation of the Constitution, it is the courts which have the final say on questions relating to rights and whether such a right is violated or not. The basis of the aforesaid statement lies in Article 13(2) of the Constitution which proscribes the State from making "any law which takes away or abridges the right conferred by Part III", enshrining fundamental rights. It categorically states that any law made in contravention thereof, to the extent of the contravention, be void.

77. We can also take note of Article 372 of the Constitution at this stage which applies to pre-constitutional laws. Article 372(1) reads as under:

> "**372.** ***Continuance in force of existing laws and their adaptation.***—(1) Notwithstanding the repeal by this Constitution of the enactments referred to in Article 395 but subject to the other provisions of this Constitution, all the laws in force in the territory of India immediately before the commencement

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of this Constitution shall continue in force therein until altered or repealed or amended by a competent legislature or other competent authority."

In the context of judicial review of legislation, this provision gives an indication that all laws enforced prior to the commencement of the Constitution can be tested for compliance with the provisions of the Constitution by courts. Such a power is recognised by this Court in *Union of India* v. *Sicom Ltd.*[47] In that judgment, it was also held that since the term "laws", as per Article 372, includes common law the power of judicial review of legislation, which is a part of common law applicable in India before the Constitution came into force, would continue to vest in the Indian courts.

78. With this, we advert to the discussion on the grounds of judicial review that are available to adjudge the validity of a piece of legislation passed by the legislature. We have already mentioned that a particular law or a provision contained in a statute can be invalidated on two grounds, namely: (*i*) it is not within the competence of the legislature which passed the law, and/or (*ii*) it is in contravention of any of the fundamental rights stipulated in Part III of the Constitution or any other right/provision of the Constitution. These contours of the judicial review are spelled out in the clear terms in *Rakesh Kohli*[34], and particularly in the following paragraphs: (SCC pp. 321-22 & 325-27, paras 16-17, 26-28 & 30)

> "*16.* The statute enacted by Parliament or a State Legislature cannot be declared unconstitutional lightly. The court must be able to hold beyond any iota of doubt that the violation of the constitutional provisions was so glaring that the legislative provision under challenge cannot stand. Sans flagrant violation of the constitutional provisions, the law made by Parliament or a State Legislature is not declared bad.
>
> *17.* This Court has repeatedly stated that legislative enactment can be struck down by court only on two grounds, namely (*i*) that the appropriate legislature does not have the competence to make the law, and (*ii*) that it does not (sic) take away or abridge any of the fundamental rights enumerated in Part III of the Constitution or any other constitutional provisions. In *McDowell and Co* [48] while dealing with the challenge to an enactment based on Article 14, this Court stated in para 43 of the Report as follows: (SCC pp. 737-38)
>
> > '*43.* ... A law made by Parliament or the legislature can be struck down by courts on two grounds and two grounds alone viz. (*1*) lack of legislative competence, and (2) violation of any of the fundamental rights guaranteed in Part III of the Constitution or of any other constitutional provision. There is no third ground. ... if an enactment is challenged as violative of Article 14, it can be struck down only if it is found that it is violative of the equality clause/

47 (2009) 2 SCC 121
34 *State of M.P.* v *Rakesh Kohli*, (2012) 6 SCC 312 : (2012) 3 SCC (Civ) 481
48 *State of A.P.* v. *McDowell & Co.*, (1996) 3 SCC 709

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equal protection clause enshrined therein. Similarly, if an enactment is challenged as violative of any of the fundamental rights guaranteed by sub-clauses (*a*) to (*g*) of Article 19(1), it can be struck down only if it is found not saved by any of the clauses (2) to (6) of Article 19 and so on. *No enactment can be struck down by just saying that it is arbitrary or unreasonable.* Some or the other constitutional infirmity has to be found before invalidating an Act. An enactment cannot be struck down on the ground that court thinks it unjustified. Parliament and the legislatures, composed as they are of the representatives of the people, are supposed to know and be aware of the needs of the people and what is good and bad for them. The court cannot sit in judgment over their wisdom."

* * *

26. In *Mohd. Hanif Quareshi*[37], the Constitution Bench further observed that there was always a presumption in favour of constitutionality of an enactment and the burden is upon him, who attacks it, to show that there has been a clear violation of the constitutional principles. It stated in para 15 of the Report as under: (AIR pp. 740-41)

> '*15.* ... The courts, it is accepted, must presume that the legislature understands and correctly appreciates the needs of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds. It must be borne in mind that the legislature is free to recognise degrees of harm and may confine its restrictions to those cases where the need is deemed to be the clearest and finally that in order to sustain the presumption of constitutionality the court may take into consideration matters of common knowledge, matters of common report, the history of the times and may assume every state of facts which can be conceived existing at the time of legislation."

27. The above legal position has been reiterated by a Constitution Bench of this Court in *Mahant Moti Das* v. *S.P. Sahi*[49].

28. In *Hamdard Dawakhana* v. *Union of India*[50], inter alia, while referring to the earlier two decisions, namely, *Bengal Immunity Co. Ltd.*[51] and *Mahant Moti Das*[49], it was observed in para 8 of the Report as follows: (*Hamdard Dawakhana case*[50], AIR p. 559)

> '*8.* Therefore, when the constitutionality of an enactment is challenged on the ground of violation of any of the articles in Part III of the Constitution, the ascertainment of its true nature and character becomes necessary i.e. its subject-matter, the area in which it is intended to operate, its purport and intent have to be determined. In

37 *Mohd. Hanif Quareshi* v. *State of Bihar*, AIR 1958 SC 731
49 AIR 1959 SC 942
50 AIR 1960 SC 554 : 1960 Cri LJ 735
51 *Bengal Immunity Co. Ltd.* v *State of Bihar*, AIR 1955 SC 661

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order to do so it is legitimate to take into consideration all the factors such as history of the legislation, the purpose thereof, the surrounding circumstances and conditions, the mischief which it intended to suppress, the remedy for the disease which the legislature resolved to cure and the true reason for the remedy....'

In *Hamdard Dawakhana*[50], the Court also followed the statement of law in *Mahant Moti Das*[49] and the two earlier decisions, namely, *Charanjit Lal Chowdhury* v. *Union of India*[52] and *State of Bombay* v. *F.N. Balsara*[53] and reiterated the principle that presumption was always in favour of constitutionality of an enactment.

* * *

30. A well-known principle that in the field of taxation, the legislature enjoys a greater latitude for classification, has been noted by this Court in a long line of cases. Some of these decisions are *Steelworth Ltd.* v. *State of Assam*[54], *Gopal Narain* v. *State of U.P.*[55], *Ganga Sugar Corpn. Ltd.* v. *State of U.P.*[56], *R.K. Garg* v. *Union of India*[57] and *State of W.B.* v. *E.I.T.A. India Ltd.*[58]" (emphasis in original)

79. Again, in *Ashoka Kumar Thakur* v. *Union of India*[59], this Court made the following pertinent observations: (SCC p. 524, para 219)

"*219.* A legislation passed by Parliament can be challenged only on constitutionally recognised grounds. Ordinarily, grounds of attack of a legislation is whether the legislature has legislative competence or whether the legislation is ultra vires the provisions of the Constitution. If any of the provisions of the legislation violates fundamental rights or any other provisions of the Constitution, it could certainly be a valid ground to set aside the legislation by invoking the power of judicial review. A legislation could also be challenged as unreasonable if it violates the principles of equality adumbrated in our Constitution or it unreasonably restricts the fundamental rights under Article 19 of the Constitution. A legislation cannot be challenged simply on the ground of unreasonableness because that by itself does not constitute a ground. The validity of a constitutional amendment and the validity of plenary legislation have to be decided purely as questions of constitutional law. This Court in *State of Rajasthan* v. *Union of India*[60] said: (SCC p. 660, para 149)

50 *Hamdard Dawakhana* v. *Union of India*, AIR 1960 SC 554 : 1960 Cri LJ 735
49 *Mahant Moti Das* v. *S.P. Sahi*, AIR 1959 SC 942
52 AIR 1951 SC 41 : 1950 SCR 869
53 AIR 1951 SC 318 : (1951) 52 Cri LJ 1361
54 1962 Supp (2) SCR 589
55 AIR 1964 SC 370
56 (1980) 1 SCC 223 : 1980 SCC (Tax) 90
57 (1981) 4 SCC 675 : 1982 SCC (Tax) 30
58 (2003) 5 SCC 239
59 (2008) 6 SCC 1 : 3 SCEC 35
60 (1977) 3 SCC 592

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> '149. ... if a question brought before the court is purely a political question not involving determination of any legal or constitutional right or obligation, the court would not entertain it, since the court is concerned only with adjudication of legal rights and liabilities.'

Therefore, the plea of the petitioner that the legislation itself was intended to please a section of the community as part of the vote catching mechanism is not a legally acceptable plea and it is only to be rejected."

80. Furthermore, it also needs to be specifically noted that this Court emphasised that apart from the aforesaid two grounds no third ground is available to invalidate any piece of legislation. In this behalf it would be apposite to reproduce the following observations from *State of A.P.* v. *McDowell & Co.*[48], which is a judgment rendered by a three-Judge Bench of this Court: (SCC pp. 737-38, para 43)

> "*43.* ... A law made by Parliament or the legislature can be struck down by courts on two grounds and two grounds alone viz. (*1*) lack of legislative competence and (2) violation of any of the fundamental rights guaranteed in Part III of the Constitution or of any other constitutional provision. There is no third ground. We do not wish to enter into a discussion of the concepts of procedural unreasonableness and substantive unreasonableness—concepts inspired by the decisions of United States Supreme Court. Even in USA, these concepts and in particular the concept of substantive due process have proved to be of unending controversy, the latest thinking tending towards a severe curtailment of this ground (substantive due process). The main criticism against the ground of substantive due process being that it seeks to set up the courts as arbiters of the wisdom of the legislature in enacting the particular piece of legislation. It is enough for us to say that by whatever name it is characterised, the ground of invalidation must fall within the four corners of the two grounds mentioned above. In other words, say, if an enactment is challenged as violative of Article 14, it can be struck down only if it is found that it is violative of the equality clause/equal protection clause enshrined therein. Similarly, if an enactment is challenged as violative of any of the fundamental rights guaranteed by sub-clauses (*a*) to (*g*) of Article 19(1), it can be struck down only if it is found not saved by any of the clauses (2) to (6) of Article 19 and so on. No enactment can be struck down by just saying that it is arbitrary* or unreasonable. Some or other constitutional infirmity has to be found before invalidating

48 (1996) 3 SCC 709

* An expression used widely and rather indiscriminately — an expression of inherently imprecise import. The extensive use of this expression in India reminds one of what Frankfurter, J. said in *Hattie Mae Tiller* v. *Atlantic Coast Line Railroad Co.*, 87 L Ed 610 , 318 US 54 (1943): "The phrase begins life as a literary expression; its felicity leads to its lazy repetition and repetition soon establishes it as a legal formula, undiscriminatingly used to express different and sometimes contradictory ideas", said the learned Judge.

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an Act. An enactment cannot be struck down on the ground that court thinks it unjustified. Parliament and the legislatures, composed as they are of the representatives of the people, are supposed to know and be aware of the needs of the people and what is good and bad for them. The court cannot sit in judgment over their wisdom. In this connection, it should be remembered that even in the case of administrative action, the scope of judicial review is limited to three grounds viz. (*i*) unreasonableness, which can more appropriately be called irrationality, (*ii*) illegality, and (*iii*) procedural impropriety (see *Council of Civil Service Unions* v. *Minister for the Civil Service*[61] which decision has been accepted by this Court as well). The applicability of doctrine of proportionality even in administrative law sphere is yet a debatable issue. (See the opinions of Lords Lowry and Ackner in *R.* v. *Secy. of State for the Home Deptt., ex p Brind*[62], AC at pp. 766-67 and 762.) It would be rather odd if an enactment were to be struck down by applying the said principle when its applicability even in administrative law sphere is not fully and finally settled."

81. Another aspect in this context, which needs to be emphasised, is that a legislation cannot be declared unconstitutional on the ground that it is "arbitrary" inasmuch as examining as to whether a particular Act is arbitrary or not implies a value judgment and the courts do not examine the wisdom of legislative choices and, therefore, cannot undertake this exercise. This was so recognised in a recent judgment of this Court *Rajbala* v. *State of Haryana*[63] wherein this Court held as under: (SCC p. 481, paras 64-65)

> "*64.* From the above extract from *McDowell & Co. case*[48] it is clear that the courts in this country do not undertake the task of declaring a piece of legislation unconstitutional on the ground that the legislation is "arbitrary" since such an exercise implies a value judgment and courts do not examine the wisdom of legislative choices unless the legislation is otherwise violative of some specific provision of the Constitution. To undertake such an examination would amount to virtually importing the doctrine of "substantive due process" employed by the American Supreme Court at an earlier point of time while examining the constitutionality of Indian legislation. As pointed out in the above extract, even in United States the doctrine is currently of doubtful legitimacy. This Court long back in *A.S. Krishna* v. *State of Madras*[64] declared that the doctrine of due process has no application under the Indian Constitution. As pointed out by Frankfurter, J., arbitrariness became a mantra.
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> *65.* For the above reasons, we are of the opinion that it is not permissible for this Court to declare a statute unconstitutional on the ground that it is "arbitrary"."

61 1985 AC 374 : (1984) 3 WLR 1174 : (1984) 3 All ER 935 (HL)
62 (1991) 1 AC 696 : (1991) 2 WLR 588 : (1991) 1 All ER 720 (HL)
63 (2016) 2 SCC 445
48 *State of A.P.* v. *McDowell & Co.*, (1996) 3 SCC 709
64 AIR 1957 SC 297 : 1957 Cri LJ 409

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82. Same sentiments were expressed earlier by this Court in *K.T. Plantation (P) Ltd.*[33] in the following words: (SCC p. 58, para 205)

> "*205.* Plea of unreasonableness, arbitrariness, proportionality, etc. always raises an element of subjectivity on which a court cannot strike down a statute or a statutory provision, especially when the right to property is no more a fundamental right. Otherwise the court will be substituting its wisdom to that of the legislature, which is impermissible in our constitutional democracy."

A fortiori, a law cannot be invalidated on the ground that the legislature did not apply its mind or it was prompted by some improper motive.

83. It is, thus, clear that in exercise of power of judicial review, the Indian courts are invested with powers to strike down primary legislation enacted by Parliament or the State Legislatures. However, while undertaking this exercise of judicial review, the same is to be done at three levels. In the first stage, the Court would examine as to whether impugned provision in a legislation is compatible with the fundamental rights or the constitutional provisions (substantive judicial review) or it falls foul of the federal distribution of powers (procedural judicial review). If it is not found to be so, no further exercise is needed as challenge would fail. On the other hand, if it is found that legislature lacks competence as the subject legislated was not within the powers assigned in the List in Schedule VII, no further enquiry is needed and such a law is to be declared as ultra vires the Constitution. However, while undertaking substantive judicial review, if it is found that the impugned provision appears to be violative of fundamental rights or other constitutional rights, the Court reaches the second stage of review. At this second phase of enquiry, the Court is supposed to undertake the exercise as to whether the impugned provision can still be saved by reading it down so as to bring it in conformity with the constitutional provisions. If that is not achievable then the enquiry enters the third stage. If the offending portion of the statute is severable, it is severed and the Court strikes down the impugned provision declaring the same as unconstitutional.

84. Keeping in view the aforesaid parameters we, at this stage, want to devote some time discussing the arguments of the petitioners based on the concept of "limited Government".

Concept of "limited Government" and its impact on powers of judicial review

85. There cannot be any dispute about the manner in which Mr Shyam Divan explained the concept of "limited Government" in his submissions. Undoubtedly, the Constitution of India, as an instrument of governance of the State, delineates the functions and powers of each wing of the State, namely, the Legislature, the Judiciary and the Executive. It also enshrines the principle of separation of powers which mandates that each wing of the State has to function within its own domain and no wing of the State is entitled to trample over the function assigned to the other wing of the State. This fundamental document of

33 *K.T. Plantation (P) Ltd. v. State of Karnataka*, (2011) 9 SCC 1 : (2011) 4 SCC (Civ) 414

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governance also contains principle of federalism wherein the Union is assigned certain powers and likewise powers of the State are also prescribed. In this context, the Union Legislature i.e. Parliament, as well as the State Legislatures are given specific areas in respect of which they have power to legislate. That is so stipulated in Schedule VII to the Constitution wherein List I enumerates the subjects over which Parliament has the dominion, List II spells out those areas where the State Legislatures have the power to make laws while List III is the Concurrent List which is accessible both to the Union as well as the State Governments. The scheme pertaining to making laws by Parliament as well as by the legislatures of the State is primarily contained in Articles 245 to 254 of the Constitution. Therefore, it cannot be disputed that each wing of the State has to act within the sphere delineated for it under the Constitution. It is correct that crossing these limits would render the action of the State ultra vires the Constitution. When it comes to power of taxation, undoubtedly, power to tax is treated as sovereign power of any State. However, there are constitutional limitations briefly described above.

86. In a nine-Judge Bench decision of this Court in *Jindal Stainless Ltd.* v. *State of Haryana*[65] discussion on these constitutional limitations are as follows: (SCC paras 24-25)

> "*24.* Exercise of sovereign power is, however, subject to constitutional limitations especially in a federal system like ours where the States also to the extent permissible exercise the power to make laws including laws that levy taxes, duties and fees. That the power to levy taxes is subject to constitutional limitations is no longer res integra. A Constitution Bench of this Court has in *Synthetics and Chemicals Ltd.* v. *State of U.P.*[38] recognised that in India the Centre and the States both enjoy the exercise of sovereign power, to the extent the Constitution confers upon them that power. This Court declared: (SCC pp. 144-45, para 56)
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> > '*56.* ... We would not like, however, to embark upon any theory of police power because the Indian Constitution does not recognise police power as such. But we must recognise the exercise of sovereign power which gives the State sufficient authority to enact any law subject to the limitations of the Constitution to discharge its functions. Hence, the Indian Constitution as a sovereign State has power to legislate on all branches except to the limitation as to the division of powers between the Centre and the States and also subject to the fundamental rights guaranteed under the Constitution. The Indian State, between the Centre and the States, has sovereign power. The sovereign power is plenary and inherent in every sovereign State to do all things which promote the health, peace, morals, education and good order of the people. Sovereignty is difficult to define. This power of sovereignty is, however, subject to constitutional limitations. This power, according to some constitutional authorities, is to the public what necessity is to

65 (2017) 12 SCC 1 : (2016) 11 Scale 1
38 (1990) 1 SCC 109

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the individual. Right to tax or levy imposts must be in accordance with the provisions of the Constitution.'

25. What then are the constitutional limitations on the power of the State Legislatures to levy taxes or/for that matter enact legislations in the field reserved for them under the relevant entries of Lists II and III of the Seventh Schedule.

25.1. The first and the foremost of these limitations appears in Article 13 of the Constitution of India which declares that all laws in force in the territory of India immediately before the commencement of the Constitution are void to the extent they are inconsistent with the provisions of Part III dealing with the fundamental rights guaranteed to the citizens. It forbids the States from making any law which takes away or abridges, any provision of Part III. Any law made in contravention of the said rights shall to the extent of contravention be void. There is no gainsaying that the power to enact laws has been conferred upon Parliament subject to the above constitutional limitation. So also in terms of Article 248, the residuary power to impose a tax not otherwise mentioned in the Concurrent List or the State List has been vested in Parliament to the exclusion of the State Legislatures, and the States' power to levy taxes limited to what is specifically reserved in their favour and no more.

25.2. Article 249 similarly empowers Parliament to legislate with respect to a matter in the State List for national interest provided the Council of States has declared by a resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in national interest to do so. The power is available till such time any resolution remains in force in terms of Article 249(2) and the proviso thereunder.

25.3. Article 250 is yet another provision which empowers Parliament to legislate with respect to any matter in the State List when there is a proclamation of emergency. In the event of an inconsistency between laws made by Parliament under Articles 249 and 250, and laws made by legislature of the States, the law made by Parliament shall, to the extent of the inconsistency, prevail over the law made by the State in terms of Article 251.

25.4. The power of Parliament to legislate for two or more States by consent, in regard to matters not otherwise within the power of Parliament is regulated by Article 252, while Article 253 starting with a non obstante clause empowers Parliament to make any law for the whole country or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body."

87. Mr Divan, however, made an earnest endeavour to further broaden this concept of "limited Government" by giving an altogether different slant. He submitted that there are certain things that the States simply cannot do because the action fundamentally alters the relationship between the citizens

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and the State. In this hue, he submitted that it was impermissible for the State to undertake the exercise of collection of biometric data, including fingerprints and storing at a central depository as it puts the State in an extremely dominant position in relation to the individual citizens. He also submitted that it will put the State in a position to target an individual and engage in surveillance thereby depriving or withholding the enjoyment of his rights and entitlements, which is totally impermissible in a country where governance of the State is founded on the concept of "limited Government". Again, this concept of limited Government is woven around Article 21 of the Constitution.

88. Undoubtedly, we are in the era of liberalised democracy. In a democratic society governed by the Constitution, there is a strong trend towards the constitutionalisation of democratic politics, where the actions of democratically elected Government are judged in the light of the Constitution. In this context, judiciary assumes the role of protector of the Constitution and democracy, being the ultimate arbiter in all matters involving the interpretation of the Constitution.

89. Having said so, when it comes to exercising the power of judicial review of a legislation, the scope of such a power has to be kept in mind and the power is to be exercised within the limited sphere assigned to the judiciary to undertake the judicial review. This has already been mentioned above. Therefore, unless the petitioner demonstrates that Parliament, in enacting the impugned provision, has exceeded its power prescribed in the Constitution or this provision violates any of the provision, the argument predicated on "limited governance" will not succeed. One of the aforesaid ingredients needs to be established by the petitioners in order to succeed.

90. Even in *Bharat Singh*[18] relied upon by Mr Divan, wherein executive order was passed imposing certain restrictions requiring the respondent therein to reside at a particular place as specified in the order, which was passed in exercise of powers contained under Section 3(1)(*b*) of the M.P. Public Security Act, 1959, the Court struck down and quashed the order only after it found that restrictions contained therein were unreasonable and violative of fundamental freedom guaranteed under Articles 19(1)(*d*) and (*e*) of the Constitution of India.

91. With this, we proceed to consider the arguments on which vires of the impugned provisions are questioned.

Argument of legislative competence

92. It is not denied by the petitioners that having regard to the provisions of Article 246 of the Constitution and Entries 82 and 97 of List I, Parliament has requisite competence to enact the impugned legislation. However, the submission of the petitioners was that the impugned legislative provision was made as per which enrolment under Aadhaar had become mandatory for the income tax assessees, whereas this Court has passed various orders repeatedly emphasising that enrolment for Aadhaar card has to be voluntary. On this basis, the argument is that the legislature lacked the authority to pass a law contrary to

18 *State of M.P.* v. *Bharat Singh*, AIR 1967 SC 1170 : (1967) 2 SCR 454

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the judgments of this Court, without removing the basis of those judgments. It was also argued that even the Aadhaar Act was voluntary in nature and the basis of the judgments of this Court could be taken away only by making enrolment under the Aadhaar Act compulsory, which was not done.

93. Before proceeding to discuss this argument, one aspect of the matter needs clarification. There was a debate as to whether the Aadhaar Act is voluntary or even that Act makes enrolment under Aadhaar mandatory.

94. First thing that is to be kept in mind is that the Aadhaar Act is enacted to enable the Government to identify individuals for delivery of benefits, subsidies and services under various welfare schemes. This is so mentioned in Section 7 of the Aadhaar Act which states that proof of Aadhaar number is necessary for receipt of such subsidies, benefits and services. At the same time, it cannot be disputed that once a person enrols himself and obtains Aadhaar number as mentioned in Section 3 of the Aadhaar Act, such Aadhaar number can be used for many other purposes. In fact, this Aadhaar number becomes the Unique Identity (UID) of that person. Having said that, it is clear that there is no provision in the Aadhaar Act which makes enrolment compulsory. May be for the purpose of obtaining benefits, proof of Aadhaar card is necessary as per Section 7 of the Act. The proviso to Section 7 stipulates that if an Aadhaar number is not assigned to enable an individual, he shall be offered alternate and viable means of identification for delivery of the subsidy, benefit or service. According to the petitioners, this proviso, which acknowledges alternate and viable means of identification, and therefore makes Aadhaar optional and voluntary and the enrolment is not necessary even for the purpose of receiving subsidies, benefits and services under various schemes of the Government. The respondents, however, interpret the proviso differently and their plea is that the words "if an Aadhaar number is not assigned to an individual" deal with only that situation where application for Aadhaar has been made but for certain reasons Aadhaar number has not been assigned as it may take some time to give Aadhaar card. Therefore, this proviso is only by way of an interim measure till Aadhaar number is assigned, which is otherwise compulsory for obtaining certain benefits as stated in Section 7 of the Aadhaar Act. Fact remains that as per the Government and UIDAI itself, the requirement of obtaining Aadhaar number is voluntary. It has been so claimed by UIDAI on its website and clarification to this effect has also been issued by UIDAI.

95. Thus, enrolment under Aadhaar is voluntary. However, it is a moot question as to whether for obtaining benefits as prescribed under Section 7 of the Aadhaar Act, it is mandatory to give Aadhaar number or not is a debatable issue which we are not addressing as this very issue is squarely raised which is the subject-matter of other writ petition filed and pending in this Court.

96. On the one hand, enrolment under Aadhaar card is voluntary, however, for the purposes of the Income Tax Act, Section 139-AA makes it compulsory for the assessees to give Aadhaar number which means insofar as income tax assessees are concerned, they have to necessarily enrol themselves under the Aadhaar Act and obtain Aadhaar number which will be their identification

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number as that has become the requirement under the Income Tax Act. The contention that since enrolment under the Aadhaar Act is voluntary, it cannot be compulsory under the Income Tax Act, cannot be countenanced. As already mentioned above, purpose for enrolment under the Aadhaar Act is to avail benefits of various welfare schemes, etc. as stipulated in Section 7 of the Aadhaar Act. Purpose behind the Income Tax Act, on the other hand, is entirely different which has already been discussed in detail above. For achieving the said purpose viz. to curb black money, money laundering and tax evasion, etc. if Parliament chooses to make the provision mandatory under the Income Tax Act, the competence of Parliament cannot be questioned on the ground that it is impermissible only because under the Aadhaar Act, the provision is directory in nature. It is the prerogative of Parliament to make a particular provision directory in one statute and mandatory/compulsory in other. That by itself cannot be a ground to question the competence of the legislature. After all, the Aadhaar Act is not a mother Act. Two laws i.e. the Aadhaar Act, on the one hand, and law in the form of Section 139-AA of the Income Tax Act, on the other hand, are two different standalone provisions/laws and validity of one cannot be examined in the light of provisions of other Acts.

97. In *MCD* v. *Shiv Shanker*[66], it was held that if the objects of two statutory provisions are different and language of each statute is restricted to its own objects or subject, then they are generally intended to run in parallel lines without meeting and there would be no real conflict though apparently it may appear to be so on the surface. We reproduce hereunder the discussion to the aforesaid aspect contained in the said judgment: (SCC p. 446, para 5)

> "5. ... It is only when a consistent body of law cannot be maintained without abrogation of the previous law that the plea of implied repeal should be sustained. To determine if a later statutory provision repeals by implication an earlier one it is accordingly necessary to closely scrutinise and consider the true meaning and effect both of the earlier and the later statute. Until this is done it cannot be satisfactorily ascertained if any fatal inconsistency exists between them. The meaning, scope and effect of the two statutes, as discovered on scrutiny, determines the legislative intent as to whether the earlier law shall cease or shall only be supplemented. If the objects of the two statutory provisions are different and the language of each statute is restricted to its own objects or subject, then they are generally intended to run in parallel lines without meeting and there would be no real conflict though apparently it may appear to be so on the surface. Statutes in pari materia although in apparent conflict, should also, so far as reasonably possible, be construed to be in harmony with each other and it is only when there is an irreconcilable conflict between the new provision and the prior statute relating to the same subject-matter, that the former, being the later expression of the legislature, may be held to prevail, the prior law yielding to the extent of the conflict. The same rule of irreconcilable repugnancy controls implied repeal of a general by a special statute. The subsequent

66 (1971) 1 SCC 442 : 1971 SCC (Cri) 195

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provision treating a phase of the same general subject-matter in a more minute way may be intended to imply repeal pro tanto of the repugnant general provision with which it cannot reasonably co-exist. When there is no inconsistency between the general and the special statute the later may well be construed as supplementary."

98. In view of the above, we are not impressed by the contention of the petitioners that the two enactments are contradictory with each other. A harmonious reading of the two enactments would clearly suggest that whereas enrolment of Aadhaar is voluntary when it comes to taking benefits of various welfare schemes even if it is presumed that requirement of Section 7 of the Aadhaar Act that it is necessary to provide Aadhaar number to avail the benefits of schemes and services, it is up to a person to avail those benefits or not. On the other hand, purpose behind enacting Section 139-AA of the Act is to check a menace of black money as well as money laundering and also to widen the income tax net so as to cover those persons who are evading the payment of tax.

99. Main emphasis, however, is on the plea that Parliament or any State Legislature cannot pass a law that overrules a judgment thereby nullifying the said decision, that too without removing the basis of the decision. This argument appears to be attractive inasmuch as few orders are passed by this Court in pending writ petitions which are to the effect that the enrolment of Aadhaar would be voluntary. However, it needs to be kept in mind that the orders have been passed in the petitions where Aadhaar Scheme floated as an executive/administrative measure has been challenged. In those cases, the said orders are not passed in a case where the Court was dealing with a statute passed by Parliament. Further, these are interim orders as the Court was of the opinion that till the matter is decided finally in the context of right to privacy issue, the implementation of the said Aadhaar Scheme would remain voluntary. In fact, the main issue as to whether Aadhaar card scheme whereby biometric data of an individual is collected violates right to privacy and, therefore, is offensive of Article 21 of the Constitution or not is yet to be decided. In the process, the Constitution Bench is also called upon to decide as to whether right to privacy is a part of Article 21 of the Constitution at all. Therefore, no final decision has been taken. In a situation like this, it cannot be said that Parliament is precluded from or it is rendered incompetent to pass such a law. That apart, the argument of the petitioners is that the basis on which the aforesaid orders are passed has to be removed, which is not done. According to the petitioners, it could be done only by making the Aadhaar Act compulsory. It is difficult to accept this contention for two reasons: first, when the orders passed by this Court which are relied upon by the petitioners were passed when the Aadhaar Act was not even enacted. Secondly, as already discussed in detail above, the Aadhaar Act and the law contained in Section 139-AA of the Income Tax Act deal with two different situations and operate in different fields. This argument of legislative incompetence also, therefore, fails.

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Whether Section 139-AA of the Act is discriminatory and offends Article 14 of the Constitution of India?

100. Article 14, which enshrines the principle of equality as a fundamental right mandates that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. It, thus, gives the right to equal treatment in similar circumstances, both in privileges conferred and in the liabilities imposed. In *Srinivasa Theatre* v. *State of T.N.*[67], this Court explained that the two expressions "equality before law" and "equal protection of law" do not mean the same thing even if there may be much in common between them. "Equality before law" is a dynamic concept having many facets. One facet is that there shall be no privileged person or class and that none shall be above law. Another facet is "the obligation upon the State to bring about, through the machinery of law, a more equal society ... for, equality before law can be predicated meaningfully only in an equal society ...". The Court further observed that Article 14 prescribes equality before law. But the fact remains that all persons are not equal by nature, attainment or circumstances, and, therefore, a mechanical equality before the law may result in injustice. Thus, the guarantee against the denial of equal protection of the law does not mean that identically the same rules of law should be made applicable to all persons in spite of difference in circumstances or conditions (see *Charanjit Lal Chowdhury* v. *Union of India*[52]).

101. The varying needs of different classes or sections of people require differential and separate treatment. The legislature is required to deal with diverse problems arising out of an infinite variety of human relations. It must, therefore, necessarily have the power of making laws to attain particular objects and, for that purpose, of distinguishing, selecting and classifying persons and things upon which its laws are to operate. The principle of equality of law, thus, means not that the same law should apply to everyone but that a law should deal alike with all in one class; that there should be an equality of treatment under equal circumstances. It means that equals should not be treated unlike and unlikes should not be treated alike. Likes should be treated alike.

102. What follows is that Article 14 forbids class legislation; it does not forbid reasonable classification of persons, objects and transactions by the legislature for the purpose of achieving specific ends. Classification to be reasonable should fulfil the following two tests:

102.1. It should not be arbitrary, artificial or evasive. It should be based on an intelligible differentia, some real and substantial distinction, which distinguishes persons or things grouped together in the class from others left out of it.

102.2. The differentia adopted as the basis of classification must have a rational or reasonable nexus with the object sought to be achieved by the statute in question.

67 (1992) 2 SCC 643
52 AIR 1951 SC 41 : 1950 SCR 869

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103. Thus, Article 14 in its ambit and sweep involves two facets viz. it permits reasonable classification which is founded on intelligible differentia and accommodates the practical needs of the society and the differentia must have a rational relation to the objects sought to be achieved. Further, it does not allow any kind of arbitrariness and ensures fairness and equality of treatment. It is the *fons juris* of our Constitution, the fountainhead of justice. Differential treatment does not per se amount to violation of Article 14 of the Constitution and it violates Article 14 only when there is no reasonable basis and there are several tests to decide whether a classification is reasonable or not and one of the tests will be as to whether it is conducive to the functioning of modern society.

104. Insofar as the impugned provision is concerned, Mr Datar had conceded that first test that of reasonable classification had been satisfied as he conceded that individual assessees form a separate class and the impugned provision which targeted only individual assessees would not be discriminatory on this ground. His whole emphasis was that Section 139-AA of the Act did not satisfy the second limb of the twin tests of classification as, according to him, this provision had no rational nexus with the object sought to be achieved In this behalf, his submission was that if the purpose of the provision was to curb circulation of black money, such an object was not achievable by seeding PAN with Aadhaar inasmuch as Aadhaar is only for individuals. His submission was that it is only the individuals who are responsible for generating black money or money laundering. This was the basis for Mr Datar's submission. We find it somewhat difficult to accept such a submission.

105. Unearthing black money or checking money laundering is to be achieved to whatever extent possible. Various measures can be taken in this behalf. If one of the measures is introduction of Aadhaar into the tax regime, it cannot be denounced only because of the reason that the purpose would not be achieved fully. Such kind of menace, which is deep-rooted, needs to be tackled by taking multiple actions and those actions may be initiated at the same time. It is the combined effect of these actions which may yield results and each individual action considered in isolation may not be sufficient. Therefore, rationality of a particular measure cannot be challenged on the ground that it has no nexus with the objective to be achieved. Of course, there is a definite objective. For this purpose alone, individual measure cannot be ridiculed. We have already taken note of the recommendations of SIT on black money headed by Justice M.B. Shah. We have also reproduced the measures suggested by the Committee headed by Chairman, CBDT on "Measures to Tackle Black Money in India and Abroad". They have, in no uncertain terms, suggested that one singular proof of identity of a person for entering into finance/business transactions, etc. may go a long way in curbing this foul practice. That apart, even if solitary purpose of de-duplication of PAN cards is taken into consideration, that may be sufficient to meet the second test of Article 14. It has come on record that 11.35 lakh cases of duplicate PAN or fraudulent PAN cards have already been detected and out of this 10.52 lakh cases pertain to individual assessees. Seeding of Aadhaar with PAN has certain benefits which

have already been enumerated. Furthermore, even when we address the issue of shell companies, fact remains that companies are after all floated by individuals and these individuals have to produce documents to show their identity. It was sought to be argued that persons found with duplicate/bogus PAN cards are hardly 0.4% and, therefore, there was no need to have such a provision. We cannot go by percentage figures. The absolute number of such cases is 10.52 lakhs, which figure, by no means, can be termed as miniscule, to harm the economy and create adverse effect on the nation. The respondents have argued that Aadhaar will ensure that there is no duplication of identity as biometrics will not allow that and, therefore, it may check the growth of shell companies as well.

106. Having regard to the aforesaid factors, it cannot be said that there is no nexus with the objective sought to be achieved.

107. Another argument predicated on Article 14 advanced by Mr Divan was that it was discriminatory in nature as it created two classes; one class of those who volunteered to enrol themselves under Aadhaar Scheme and other class of those who did not want it to be so. It was further submitted that in this manner this provision had the effect of creating an artificial class of those who object to Aadhaar Scheme as self-conscious persons. This is a fallacious argument.

108. Validity of a legislative Act cannot be challenged by creating artificial classes by those who are objecting to the said provision and predicating the argument of discrimination on that basis. When a law is made, all those who are covered by that law are supposed to follow the same. No doubt, it is the right of a citizen to approach the court and question the constitutional validity of a particular law enacted by the legislature. However, merely because a section of persons opposes the law, would not mean that it has become a separate class by itself. Two classes, cannot be created on this basis, namely, one of those who want to be covered by the scheme, and others who do not want to be covered thereby. If such a proposition is accepted, every legislation would be prone to challenge on the ground of discrimination. As far as plea of discrimination is concerned, it has to be raised by showing that the impugned law creates two classes without any reasonable classification and treats them differently.

109. The principle of equality does not mean that every law must have universal application for all persons who are not by nature, attainment or circumstances, in the same position, as the varying needs of different classes of persons often require separate treatment. It is permissible for the State to classify persons for legitimate purposes. The legislature is also competent to exercise its discretion and make classification. In the present scenario the impugned legislation has created two classes i.e. one class of those persons who are assessees and other class of those persons who are income tax assessees. It is because of the reason that the impugned provision is applicable only to those who are filing income tax returns. Therefore, the only question would be as to whether this classification is reasonable or not. There cannot be any dispute that there is a reasonable basis for differentiation and, therefore, equal protection

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clause enshrined in Article 14 is not attracted. What Article 14 prohibits is class legislation and not reasonable classification for the purpose of legislation. All income tax assessees constitute one class and they are treated alike by the impugned provision.

110. It may also be pointed out that the counsel for the respondents had argued that doctrine of proportionality cannot be read into Article 14 of the Constitution and in support reliance has been placed on the judgment of this Court in *E.P. Royappa* v. *State of T.N.*[68] This aspect need not be considered in detail inasmuch as Mr Datar, learned counsel appearing for the petitioner, had conceded at the Bar that he had invoked the doctrine of proportionality only in the context of Article 19(1)(*g*).

111. We, therefore, reject the argument founded on Article 14 of the Constitution.

Whether the impugned provision is violative of Article 19(1)(g)?

112. Invocation of provisions of Article 19(1)(g) of the Constitution by the petitioners was in the context of the proviso to sub-section (2) of Section 139-AA of the Act which contains the consequences of the failure to intimate the Aadhaar number to such authority in such form and manner as may be prescribed and reads as under:

> "**139-AA.** (2) Every person who has been allotted Permanent Account Number as on the 1st day of July, 2017, and who is eligible to obtain Aadhaar number, shall intimate his Aadhaar number to such authority in such form and manner as may be prescribed, on or before a date to be notified by the Central Government in the Official Gazette:
>
> *Provided that in case of failure to intimate the Aadhaar number, the Permanent Account Number allotted to the person shall be deemed to be invalid and the other provisions of this Act shall apply, as if the person had not applied for allotment of Permanent Account Number.*" (emphasis supplied)

113. The submission was that the aforesaid penal consequence was draconian in nature and totally disproportionate to the non-compliance with provisions contained in Section 139-AA. It was pointed out that persons affected by Section 139-AA are only individuals i.e. natural persons and not legal/artificial personalities like companies, trusts, partnership firms, etc. Thus, individuals who are professionals like lawyers, doctors, architects and lakhs of businessmen having small or micro enterprises are going to suffer such a serious consequence for failure to intimate Aadhaar number to the designated authority. According to him, consequence of not having a PAN card results in a virtual "civil death" as one example given was that under Rule 114-B of the Rules, it will not be possible to operate bank accounts with transaction above Rs 50,000 or to use credit/debit cards or purchase motor vehicles or property, etc.

68 (1974) 4 SCC 3 : 1974 SCC (L&S) 165

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114. Section 139-A deals with PAN. Sub-section (1) thereof requires four classes of persons to have the PAN allotted. It reads as under:

"**139-A.** ***Permanent Account Number.***—(1) Every person—

(*i*) if his total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the maximum amount which is not chargeable to income tax; or

(*ii*) carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed five lakh rupees in any previous year; or

(*iii*) who is required to furnish a return of income under sub-section (4-A) of Section 139; or

(*iv*) being an employer, who is required to furnish a return of fringe benefits under Section 115-WD.

and who has not been allotted a Permanent Account Number shall, within such time, as may be prescribed, apply to the assessing officer for the allotment of a Permanent Account Number."

115. This PAN number has to be mentioned/quoted in number of eventualities specified under sub-sections (5), (5-A), (5-B), (5-C), (5-D) and sub-section (6) of Section 139-A. These provisions read as under:

"**139-A.** (**5**) Every person shall—

(*a*) quote such number in all his returns to, or correspondence with, any income tax authority;

(*b*) quote such number in all challans for the payment of any sum due under this Act;

(*c*) quote such number in all documents pertaining to such transactions as may be prescribed by the Board in the interests of the revenue, and entered into by him:

Provided that the Board may prescribe different dates for different transactions or class of transactions or for different class of persons:

Provided further that a person shall quote general index register number till such time Permanent Account Number is allotted to such person;

(*d*) intimate the assessing officer any change in his address or in the name and nature of his business on the basis of which the Permanent Account Number was allotted to him.

(5-A) Every person receiving any sum or income or amount from which tax has been deducted under the provisions of Chapter XVII-B, shall intimate his Permanent Account Number to the person responsible for deducting such tax under that Chapter:

Provided further that a person referred to in this sub-section, shall intimate the general index register number till such time permanent account number is allotted to such person.

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(5-B) Where any sum or income or amount has been paid after deducting tax under Chapter XVII-B, every person deducting tax under that Chapter shall quote the permanent account number of the person to whom such sum or income or amount has been paid by him—

(*i*) in the statement furnished in accordance with the provisions of sub-section (2-C) of Section 192;

(*ii*) in all certificates furnished in accordance with the provisions of Section 203;

(*iii*) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of Section 206 to any income tax authority;

(*iv*) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of Section 200:

Provided that the Central Government may, by notification in the Official Gazette, specify different dates from which the provisions of this sub-section shall apply in respect of any class or classes of persons:

Provided further that nothing contained in sub-sections (5-A) and (5-B) shall apply in case of a person whose total income is not chargeable to income tax or who is not required to obtain permanent account number under any provisions of this Act if such person furnishes to the person responsible for deducting tax a declaration referred to in Section 197-A in the form and manner prescribed thereunder to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil.

(5-C) Every buyer or licensee or lessee referred to in Section 206-C shall intimate his permanent account number to the person responsible for collecting tax referred to in that section.

(5-D) Every person collecting tax in accordance with the provisions of Section 206-C shall quote the permanent account number of every buyer or licensee or lessee referred to in that section—

(*i*) in all certificates furnished in accordance with the provisions of sub-section (5) of Section 206-C;

(*ii*) in all returns prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (5-A) or sub-section (5-B) of Section 206-C to an income tax authority;

(*iii*) in all statements prepared and delivered or caused to be delivered in accordance with the provisions of sub-section (3) of Section 206-C.

(6) Every person receiving any document relating to a transaction prescribed under clause (*c*) of sub-section (5) shall ensure that the permanent account number or the general index register number has been duly quoted in the document."

116. Sub-section (8) empowers the Board to make rules, inter alia, prescribing the categories of transactions in relation to which PAN is to be quoted. Rule 114-B of the Rules lists the nature of transaction in sub-rules (*a*) to (*r*) thereof where PAN number is to be given.

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117. According to the petitioners, it amounts to violating their fundamental right to carry on business/profession, etc. as enshrined under Article 19(1)(*g*) of the Constitution which stands infringed and, therefore, it was for the State to show that the restriction is reasonable and in the interest of public under Article 19(6) of the Constitution. It is in this context, principle of proportionality has been invoked by the petitioners with their submission that restriction is unreasonable as it is utterly disproportionate for committing breach of Section 139-AA of the Act.

118. As noted above, Mr Datar had relied upon the judgment of this Court in *Modern Dental College & Research Centre*[17] and submitted that while applying the test of proportionality, the respondents were specifically required to demonstrate that the measures undertaken are necessary in that there are no alternative measures that may similarly achieve that same purpose with a lesser degree of limitation (narrow tailoring) and also that there was proper relation between the importance of achieving the proper purpose and the social importance of preventing the limitation on the constitutional right (balancing two competing interests).

119. In order to consider the aforesaid submissions we may bifurcate Section 139-AA of the Act in two parts, as follows:

> (*i*) That portion of the provision which requires quoting of Aadhaar number [sub-section (1)] and requirement of intimating Aadhaar number to the prescribed authorities by those who are PAN holders [sub-section (2)].
>
> (*ii*) Consequences of failure to intimate Aadhaar number to the prescribed authority by specified date.

120. Insofar as the first limb of Section 139-AA of the Act is concerned, we have already held that it was within the competence of Parliament to make a provision of this nature and further that it is not offensive of Article 14 of the Constitution. This requirement, per se, does not find foul with Article 19(1)(*g*) of the Constitution either, inasmuch as, quoting the Aadhaar number for purposes mentioned in sub-section (1) or intimating the Aadhaar number to the prescribed authority as per the requirement of sub-section (2) does not, by itself, impinge upon the right to carry on profession or trade, etc. Therefore, it is not violative of Article 19(1)(*g*) of the Constitution either. In fact, that is not even the argument of the petitioners. Entire emphasis of the petitioners' submissions, while addressing the arguments predicated on Article 19(1)(*g*) of the Constitution, is on the consequences that ensue in terms of proviso to sub-section (2) inasmuch as it is argued, as recorded above, that the consequences provided will have the effect of paralysing the right to carry on business/profession. Therefore, thrust is on the second part of Section 139-AA of the Act, which we proceed to deal with, now.

121. At the outset, it may be mentioned that though PAN is issued under the provisions of the Act (Section 139-A), its function is not limited to giving this number in the income tax returns or for other acts to be performed under

17 *Modern Dental College and Research Centre* v. *State of M.P.*, (2016) 7 SCC 353 : 7 SCEC 1

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the Act, as mentioned in sub-sections (5), (5-A), (5-B), (5-C), (5-D) and (6) of Section 139-A. Rule 114-B of the Rules mandates quoting of this PAN in various other documents pertaining to different kinds of transactions listed therein. It is for sale and purchase of immovable property valued at Rs 5 lakhs or more; sale or purchase of motor vehicle, etc., while opening deposit account with a sum exceeding Rs 50,000 with a banking company; while making deposit of more than Rs 50,000 in any account with post office, savings bank; a contract of a value exceeding Rs 1 lakh for sale or purchase of securities as defined under the Securities Contracts (Regulation) Act, 1956; while opening an account with a banking company; making an application for installation of a telephone connection; making payment to hotels and restaurants when such payment exceeds Rs 25,000 at any one time; while purchasing bank drafts or pay orders for an amount aggregating Rs 50,000 or more during any one day, when payment is in cash; payment in cash in connection with travel to any foreign country of an amount exceeding Rs 25,000 at any one time, while making payment of an amount of Rs 50,000 or more to a mutual fund for purchase of its units or for acquiring shares or debentures/bonds in a company or bonds issued by Reserve Bank of India; or when the transaction of purchase of bullion or jewellery is made by making payment in cash to a dealer above a specified amount, etc. This shows that for doing many activities of day-to-day nature, including in the course of business, PAN is to be given. Pithily put, in the absence of PAN, it will not be possible to undertake any of the aforesaid activities though this requirement is aimed at curbing the tax evasion. Thus, if the PAN of a person is withdrawn or is nullified, it definitely amounts to placing restrictions on the right to do business as a business under Article 19(1)(*g*) of the Act. The question would be as to whether these restrictions are reasonable and, therefore, meet the requirement of clause (6) of Article 19.

122. In this context, when "balancing" is to be done, doctrine of proportionality can be applied, which was explained in *Modern Dental College & Research Centre*[17], in the following manner: (SCC pp. 412-16, paras 59-65)

> "***Doctrine of proportionality explained and applied***
>
> *59.* Undoubtedly, the right to establish and manage the educational institutions is a fundamental right recognised under Article 19(1)(*g*) of the Act. It also cannot be denied that this right is not "*absolute*" and is subject to limitations i.e. "*reasonable restrictions*" that can be imposed by law on the exercise of the rights that are conferred under clause (1) of Article 19. Those restrictions, however, have to be reasonable. Further, such restrictions should be "*in the interest of general public*", which conditions are stipulated in clause (6) of Article 19, as under:
>
> > '19. (6) Nothing in sub-clause (*g*) of the said clause shall affect the operation of any existing law insofar as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said

17 *Modern Dental College and Research Centre* v. *State of M.P.*, (2016) 7 SCC 353 : 7 SCEC 1

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sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law insofar as it relates to, or prevent the State from making any law relating to—

(*i*) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(*ii*) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.'

60. Another significant feature which can be noticed from the reading of the aforesaid clause is that the State is empowered to make any law relating to the professional or technical qualifications necessary for practising any profession or carrying on any occupation or trade or business. Thus, while examining as to whether the impugned provisions of the statute and rules amount to reasonable restrictions and are brought out in the interest of the general public, the exercise that is required to be undertaken is the balancing of fundamental right to carry on occupation on the one hand and the restrictions imposed on the other hand. This is what is known as "*doctrine of proportionality*". Jurisprudentially, "*proportionality*" can be defined as the set of rules determining the necessary and sufficient conditions for limitation of a constitutionally protected right by a law to be constitutionally permissible. According to Aharon Barak (former Chief Justice, Supreme Court of Israel), there are four sub-components of proportionality which need to be satisfied [Aharon Barak, *Proportionality: Constitutional Rights and Their Limitation* (Cambridge University Press 2012)], a limitation of a constitutional right will be constitutionally permissible if:

(*i*) it is designated for a proper purpose;

(*ii*) the measures undertaken to effectuate such a limitation are rationally connected to the fulfilment of that purpose;

(*iii*) the measures undertaken are necessary in that there are no alternative measures that may similarly achieve that same purpose with a lesser degree of limitation; and finally

(*iv*) there needs to be a proper relation ("*proportionality stricto sensu*" or "*balancing*") between the importance of achieving the proper purpose and the social importance of preventing the limitation on the constitutional right.

61. Modern theory of constitutional rights draws a fundamental distinction between the scope of the constitutional rights, and the extent of its protection. Insofar as the scope of constitutional rights is concerned, it marks the outer boundaries of the said rights and defines its contents. The extent of its protection prescribes the limitations on the exercises of the rights within its scope. In that sense, it defines the justification for limitations that can be imposed on such a right.

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62. It is now almost accepted that there are no absolute constitutional rights** and all such rights are related. As per the analysis of Aharon Barak†, two key elements in developing the modern constitutional theory of recognising positive constitutional rights along with its limitations are the notions of democracy and the rule of law. Thus, the requirement of proportional limitations of constitutional rights by a sub-constitutional law i.e. the statute, is derived from an interpretation of the notion of democracy itself. Insofar as the Indian Constitution is concerned, democracy is treated as the basic feature of the Constitution and is specifically accorded a constitutional status that is recognised in the Preamble of the Constitution itself. It is also unerringly accepted that this notion of democracy includes human rights which is the cornerstone of Indian democracy. Once we accept the aforesaid theory (and there cannot be any denial thereof), as a fortiori, it has also to be accepted that democracy is based on a balance between constitutional rights and the public interests. In fact, such a provision in Article 19 itself on the one hand guarantees some certain freedoms in clause (1) of Article 19 and at the same time empowers the State to impose reasonable restrictions on those freedoms in public interest. This notion accepts the modern constitutional theory that the constitutional rights are related. This relativity means that a constitutional licence to limit those rights is granted where such a limitation will be justified to protect public interest or the rights of others. This phenomenon—of both the right and its limitation in the Constitution—exemplifies the inherent tension between democracy's two fundamental elements. On the one hand is the right's element, which constitutes a fundamental component of substantive democracy; on the other hand is the people element, limiting those very rights through their representatives. These two constitute a fundamental component of the notion of democracy, though this time in its formal aspect. How can this tension be resolved? The answer is that this tension is not resolved by eliminating the "*losing*" facet from the Constitution. Rather, the tension is resolved by way of a proper balancing of the competing principles. This is one of the expressions of the multi-faceted nature of democracy. Indeed, the inherent tension between democracy's

** Though, debate on this vexed issue still continues and some constitutional experts claim that there are certain rights, albeit very few, which can still be treated as "absolute". Examples given are:

(*a*) Right to human dignity which is inviolable,

(*b*) Right not to be subjected to torture or to inhuman or degrading treatment or punishment.

Even in respect of such rights, there is a thinking that in larger public interest, the extent of their protection can be diminished. However, so far such attempts of the States have been thwarted by the judiciary.

† Aharon Barak, *Proportionality: Constitutional Rights and Their Limitation* (Cambridge University Press 2012).

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different facets is a "*constructive tension*". It enables each facet to develop while harmoniously coexisting with the others. The best way to achieve this peaceful coexistence is through balancing between the competing interests. Such balancing enables each facet to develop alongside the other facets, not in their place. This tension between the two fundamental aspects—rights on the one hand and its limitation on the other hand—is to be resolved by balancing the two so that they harmoniously coexist with each other. This balancing is to be done keeping in mind the relative social values of each competitive aspects when considered in proper context.

63. In this direction, the next question that arises is as to what criteria is to be adopted for a proper balance between the two facets viz. the rights and limitations imposed upon it by a statute. Here comes the concept of "*proportionality*", which is a proper criterion. To put it pithily, when a law limits a constitutional right, such a limitation is constitutional if it is proportional. The law imposing restrictions will be treated as proportional if it is meant to achieve a proper purpose, and if the measures taken to achieve such a purpose are rationally connected to the purpose, and such measures are necessary. This essence of doctrine of proportionality is beautifully captured by Dickson, C.J. of Canada in *R.* v. *Oakes*[69], in the following words (at p. 138):

> 'To establish that a limit is reasonable and demonstrably justified in a free and democratic society, two central criteria must be satisfied. First, the objective, which the measures, responsible for a limit on a Charter right or freedom are designed to serve, must be "of" sufficient importance to warrant overriding a constitutional protected right or freedom ... Second ... the party invoking Section 1 must show that the means chosen are reasonable and demonstrably justified. This involves "a form of proportionality test..." Although the nature of the proportionality test will vary depending on the circumstances, in each case courts will be required to balance the interests of society with those of individuals and groups. There are, in my view, three important components of a proportionality test. First, the measures adopted must be ... rationally connected to the objective. Second, the means ... should impair "as little as possible" the right or freedom in question ... Third, there must be a proportionality between the effects of the measures which are responsible for limiting the Charter right or freedom, and the objective which has been identified as of "sufficient importance". The more severe the deleterious effects of a measure, the more important the objective must be if the measure is to be reasonable and demonstrably justified in a free and democratic society.'

64. The exercise which, therefore, is to be taken is to find out as to whether the limitation of constitutional rights is for a purpose that is reasonable and necessary in a democratic society and such an

69 (1986) 1 SCR 103 (Can SC)

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exercise involves the weighing up of competitive values, and ultimately an assessment based on proportionality i.e. balancing of different interests.

65. We may unhesitatingly remark that this doctrine of proportionality, explained hereinabove in brief, is enshrined in Article 19 itself when we read clause (1) along with clause (6) thereof. While defining as to what constitutes a reasonable restriction, this Court in a plethora of judgments has held that the expression "*reasonable restriction*" seeks to strike a balance between the freedom guaranteed by any of the sub-clauses of clause (1) of Article 19 and the social control permitted by any of the clauses (2) to (6). It is held that the expression "*reasonable*" connotes that the limitation imposed on a person in the enjoyment of the right should not be arbitrary or of an excessive nature beyond what is required in the interests of public. Further, in order to be reasonable, the restriction must have a reasonable relation to the object which the legislation seeks to achieve, and must not go in excess of that object (see *P.P. Enterprises* v. *Union of India*[70]). At the same time, reasonableness of a restriction has to be determined in an objective manner and from the standpoint of the interests of the general public and not from the point of view of the persons upon whom the restrictions are imposed or upon abstract considerations (see *Mohd. Hanif Quareshi* v. *State of Bihar*[37]). In *M.R.F. Ltd.* v. *State of Kerala*[71], this Court held that in examining the reasonableness of a statutory provision one has to keep in mind the following factors:

(1) The directive principles of State policy.

(2) Restrictions must not be arbitrary or of an excessive nature so as to go beyond the requirement of the interest of the general public.

(3) In order to judge the reasonableness of the restrictions, no abstract or general pattern or a fixed principle can be laid down so as to be of universal application and the same will vary from case to case as also with regard to changing conditions, values of human life, social philosophy of the Constitution, prevailing conditions and the surrounding circumstances.

(4) A just balance has to be struck between the restrictions imposed and the social control envisaged by Article 19(6).

(5) Prevailing social values as also social needs which are intended to be satisfied by the restrictions.

(6) There must be a direct and proximate nexus or reasonable connection between the restrictions imposed and the object sought to be achieved. If there is a direct nexus between the restrictions, and the object of the Act, then a strong presumption in favour of the constitutionality of the Act will naturally arise."

(emphasis in original)

70 (1982) 2 SCC 33 : 1982 SCC (Cri) 341
37 AIR 1958 SC 731
71 (1998) 8 SCC 227 : 1999 SCC (L&S) 1

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123. Keeping in view the aforesaid parameters and principles in mind, we proceed to discuss as to whether the "restrictions" which would result in terms of the proviso to sub-section (2) of Section 139-AA of the Act are reasonable or not.

124. Let us revisit the objectives of Aadhaar, and in the process, that of Section 139-AA of the Act in particular.

125. By making use of the technology, a method is sought to be devised, in the form of Aadhaar, whereby identity of a person is ascertained in a flawless manner without giving any leeway to any individual to resort to dubious practices of showing multiple identities or fictitious identities. That is why it is given the nomenclature "unique identity". It is aimed at securing advantages on different levels some of which are described, in brief, below:

125.1. In the first instance, as a welfare and democratic State, it becomes the duty of any responsible Government to come out with welfare schemes for the upliftment of poverty-stricken and marginalised sections of the society. This is even the ethos of Indian Constitution which casts a duty on the State, in the form of "directive principles of State policy", to take adequate and effective steps for betterment of such underprivileged classes. State is bound to take adequate measures to provide education, health care, employment and even cultural opportunities and social standing to these deprived and underprivileged classes. It is not that Government has not taken steps in this direction from time to time. At the same time, however, harsh reality is that benefits of these schemes have not reached those persons for whom that are actually meant.

125.1.1. India has achieved significant economic growth since Independence. In particular, rapid economic growth has been achieved in the last 25 years, after the country adopted the policy of liberalisation and entered the era of, what is known as, globalisation. Economic growth in the last decade has been phenomenal and for many years, the Indian economy grew at highest rate in the world. At the same time, it is also a fact that in spite of significant political and economic success which has proved to be sound and sustainable, the benefits thereof have not percolated down to the poor and the poorest. In fact, such benefits are reaped primarily by rich and upper middle classes, resulting into widening the gap between the rich and the poor.

125.1.2. Jean Dreze and Amartya Sen pithily narrate the position as under[72]:

> "Since India's recent record of fast economic growth is often celebrated, with good reason, it is extremely important to point to the fact that the societal reach of economic progress in India has been remarkably limited. It is not only that the income distribution has been getting more unequal in recent years (a characteristic that India shares with China), but also that the rapid rise in real wages in China from which the working classes have benefited greatly is not matched at all by India's relatively stagnant real wages. No less importantly, the public revenue generated by

72 *An Uncertain Glory : India and its Contradictions*

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rapid economic growth has not been used to expand the social and physical infrastructure in a determined and well-planned way (in this India is left far behind by China). There is also a continued lack of essential social services (from schooling and health care to the provision of safe water and drainage) for a huge part of the population. As we will presently discuss, while India has been overtaking other countries in the progress of its real income, it has been overtaken in terms of social indicators by many of these countries, even within the region of South Asia itself (we go into this question more fully in Chapter 3, 'India in Comparative Perspective').

To point to just one contrast, even though India has significantly caught up with China in terms of GDP growth, its progress has been very much slower than China's in indicators such as longevity, literacy, child undernourishment and maternal mortality. In South Asia itself, the much poorer economy of Bangladesh has caught up with and overtaken India in terms of many social indicators (including life expectancy, immunisation of children, infant mortality, child undernourishment and girls' schooling). Even Nepal has been catching up, to the extent that it now has many social indicators similar to India's, in spite of its per capita GDP being just about one third. Whereas twenty years ago India generally had the second best social indicators among the six South Asian countries (India, Pakistan, Bangladesh, Sri Lanka, Nepal and Bhutan), it now looks second worst (ahead only of problem-ridden Pakistan). India has been climbing up the ladder of per capita income while slipping down the slope of social indicators."

125.1.3. It is in this context that not only sustainable development is needed which takes care of integrating growth and development, thereby ensuring that the benefit of economic growth is reaped by every citizen of this country, it also becomes the duty of the Government in a welfare State to come out with various welfare schemes which not only take care of immediate needs of the deprived class but also ensure that adequate opportunities are provided to such persons to enable them to make their lives better, economically as well as socially. As mentioned above, various welfare schemes are, in fact, devised and floated from time to time by the Government, keeping aside substantial amount of money earmarked for spending on socially and economically backward classes. However, for various reasons including corruption, actual benefit does not reach those who are supposed to receive such benefits. One of the main reasons is failure to identify these persons for lack of means by which identity could be established of such genuine needy class. Resultantly, lots of ghosts and duplicate beneficiaries are able to take undue and impermissible benefits. A former Prime Minister of this country[73] has gone on record to say that out of one rupee spent by the Government for welfare of the downtrodden, only 15 paisa thereof actually reaches those persons for whom it is meant. It cannot be doubted that with UID/Aadhaar much of the malaise in this field can be taken care of.

73 Late Shri Rajiv Gandhi

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125.2. Menace of corruption and black money has reached alarming proportion in this country. It is eating into the economic progress which the country is otherwise achieving. It is not necessary to go into the various reasons for this menace. However, it would be pertinent to comment that even as per the observations of the Special Investigation Team (SIT) on black money headed by Justice M.B. Shah, one of the reasons is that persons have the option to quote their PAN or UID or passport number or driving licence or any other proof of identity while entering into financial/business transactions. Because of this multiple methods of giving proofs of identity, there is no mechanism/system at present to collect the data available with each of the independent proofs of ID. For this reason, even SIT suggested that these databases be interconnected. To the same effect is the recommendation of the Committee headed by Chairman, CBDT on measures to tackle black money in India and abroad which also discusses the problem of money laundering being done to evade taxes under the garb of shell companies by the persons who hold multiple bogus PAN numbers under different names or variations of their names. That can be possible if one uniform proof of identity, namely, UID is adopted. It may go a long way to check and minimise the said malaise.

125.3. Thirdly, Aadhaar or UID, which has come to be known as the most advanced and sophisticated infrastructure, may facilitate law-enforcement agencies to take care of problem of terrorism to some extent and may also be helpful in checking the crime and also help investigating agencies in cracking the crimes. No doubt, going by the aforesaid, and may be some other similarly valid considerations, it is the intention of the Government to give fillip to Aadhaar movement and encourage the people of this country to enrol themselves under the Aadhaar Scheme.

126. Whether such a scheme should remain voluntary or it can be made mandatory imposing compulsiveness on the people to be covered by Aadhaar is a different question which shall be addressed at the appropriate stage. At this juncture, it is only emphasised that mala fides cannot be attributed to this scheme. In any case, we are concerned with the vires of Section 139-AA of the Income Tax Act, 1961 which is a statutory provision. This Court is, thus, dealing with the aspect of judicial review of legislation. Insofar as this provision is concerned, the explanation of the respondents in the counter-affidavit, which has already been reproduced above, is that the primary purpose of introducing this provision was to take care of the problem of multiple PAN cards obtained in fictitious names. Such multiple cards in fictitious names are obtained with the motive of indulging into money laundering, tax evasion, creation and channelising of black money. It is mentioned that in de-duplication exercises, 11.35 lakh cases of duplicate PANs/fraudulent PANs have been detected. Out of these, around 10.52 lakhs pertain to the individual assessees. Parliament in its wisdom thought that one PAN to one person can be ensured by adopting Aadhaar for allotment of PAN to individuals. As of today, that is the only method available i.e. by seeding of existing PAN with Aadhaar. It is perceived as the best method, and the only robust method of de-duplication of PAN database. It is claimed by the respondents that the instance of duplicate Aadhaar

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is almost non-existent. It is also claimed that seeding of PAN with Aadhaar may contribute to widening of the tax case as well, by checking the tax evasions and bringing into tax hold those persons who are liable to pay tax but deliberately avoid doing so.

127. It would be apposite to quote the following discussion by the Comptroller and Auditor General in his report for the year 2011:

"Widening of Tax Base

The assessee base grew over the last five years from 297.9 lakh taxpayers in 2005-06 to 340.9 lakh taxpayers in 2009-10 at the rate of 14.4 per cent.

The Department has different mechanisms available to enhance the assessee base which include inspection and survey, information sharing with other tax departments and third-party information available in annual information returns. Automation also facilitates greater crosslinking. Most of these mechanisms are available at the level of assessing officers. The Department needs to holistically harness these mechanisms at macro level to analyse the gaps in the assessee base. Permanent Account Numbers (PANs) issued up to March 2009 and March 2010 were 807.9 lakhs and 958 lakhs respectively. The returns filed in 2008-09 and 2009-10 were 326.5 lakhs and 340.9 lakhs respectively. The gap between PANs and the number of returns filed was 617.1 lakhs in 2009-10. The Board needs to identify the reasons for the gap and use this information for appropriately enhancing the assessee base. *The gap may be due to issuance of duplicate PAN cards and death of some PAN card holders. The Department needs to put in place appropriate controls to weed out the duplicate PANs and also update the position in respect of deceased assessee. It is significant to note that the number of PAN card holders has increased by 117.7 per cent between 2005-06 to 2009-10 whereas the number of returns filed in the same period has increased by 14.4 per cent only.*

The total direct tax collection has increased by 128.8 per cent during the period 2005-06 to 2009-10. The increase in the tax collection was around nine times as compared to increase in the assessee base. It should be the constant endeavour of the Department to ensure that the entire assessee base, once correctly identified is duly meeting the entire tax liability. However, no assurance could be obtained that the tax liability on the assessee is being assessed and collected properly. This comment is corroborated in Para 2.4.1 of Chapter 2 of this report where we have mentioned about our detection of undercharge of tax amounting to Rs 12,842.7 crores in 19,230 cases audited during 2008-09. However, given the fact that ours is a test audit, the Department needs to take firm steps towards strengthening the controls available on the existing statutes towards deriving an assurance on the tax collections." (emphasis supplied)

128. Likewise, the Finance Minister in his Budget speech in February 2013 described the extent of tax evasion and offering lesser income tax than what is

actually due thereby labelling India as tax non-compliant, with the following figures:

> "India's tax to GDP ratio is very low, and the proportion of direct tax to indirect tax is not optional from the viewpoint of social justice. I place before you certain data to indicate that our direct tax collection is not commensurate with the income and consumption pattern of Indian economy. As against estimated 4.2 crore persons engaged in organised sector employment, the number of individuals filing return for salary income are only 1.74 crores. As against 5.6 crore informal sector individual enterprises and firms doing small business in India, the number of returns filed by this category are only 1.81 crores. Out of the 13.94 lakh companies registered in India up to 31-3-2014, 5.97 lakh companies have filed their returns for Assessment Year 2016-17. Of the 5.97 lakh companies which have filed their returns for Assessment Year 2016-17 so far, as many as 2.76 lakh companies have shown losses or zero income. 2.85 lakh companies have shown profit before tax of less than Rs 1 crore. 28,667 companies have shown profit between Rs 1 crore to Rs 10 crores, and only 7781 companies have profit before tax of more than Rs 10 crores. Among 3.7 crore individuals who filed the tax returns in 2015-16, 99 lakhs show income below the exemption limit of Rs 2.5 lakh p.a. 1.95 crores show income between Rs 2.5 to Rs 5 lakhs, 52 lakhs show income between Rs 5 to Rs 10 lakhs and only 24 lakh people show income above Rs 10 lakhs. Of the 76 lakh individual assessees who declare income above Rs 5 lakhs, 56 lakhs are in the salaried class. The number of people showing income more than 50 lakhs in the entire country is only 1.72 lakhs. We can contrast this with the fact that in the last five years, more than 1.25 crore cars have been sold, and number of Indian citizens who flew abroad, either for business or tourism, is 2 crores in the year 2015. From all these figures we can conclude that we are largely a tax non-compliant society. The predominance of the cash in the economy makes it possible for the people to evade their taxes. When too many people evade the taxes, the burden of their share falls on those who are honest and compliant."

129. The respondents have also claimed that linking of Aadhaar with PAN is consistent with India's international obligations and goals. In this behalf, it is pointed out that India has signed the Inter-Governmental Agreement (IGA) with USA on 9-7-2015, for Improving International Tax Compliance and implementing the Foreign Account Tax Compliance Act (FATCA). India has also signed a multilateral agreement on 3-6-2015, to automatically exchange information based on Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters under the Common Reporting Scheme (CRS), formally referred to as the Standard for Automatic Exchange of Financial Account Information (AEoI). As part of India's commitment under FATCA and CRS, financial sector entities capture the details about the customers using the PAN. In case the PAN or submitted details are found to be incorrect or fictitious, it will create major embarrassment for the country. Under Non-

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filers Monitoring System (NMS), the Income Tax Department identifies non-filers with potential tax liabilities. Data analysis is carried out to identify non-filers about whom specific information was available in AIR, CIB data and TDS/TCS returns. Email/SMS and letters are sent to the identified non-filers communicating the information summary and seeking to know the submission details of income tax return. In a large number of cases (more than 10 lakh PANs every year) it is seen that the PAN holder neither submits the response and in many cases the letters are return unserved. Field verification by field formations have found that in a large number of cases, the PAN holder is untraceable. In many cases, the PAN holder mentions that the transaction does not relate to them. There is a need to strengthen PAN by linking it with Aadhaar/biometric information to prevent use of wrong PAN for high value transactions.

130. While considering the aforesaid submission of the petitioners, one has to keep in mind the aforesaid purpose of the impugned provision and what it seeks to achieve. The provision is aimed at seeding Aadhaar with PAN. We have already held, while considering the submission based on Article 14 of the Constitution, that the provision is based on reasonable classification and that has nexus with the objective sought to be achieved. One of the main objectives is to de-duplicate PAN cards and to bring a situation where one person is not having more than one PAN card or a person is not able to get PAN cards in assumed/fictitious names. In such a scenario, if those persons who violate Section 139-AA of the Act without any consequence, the provision shall be rendered toothless. It is the prerogative of the legislature to make penal provisions for violation of any law made by it. In the instant case, requirement of giving Aadhaar enrolment number to the designated authority or stating this number in the income tax returns is directly connected with the issue of duplicate/fake PANs.

131. At this juncture, we will also like to quote the following passages from the nine-Judge Bench judgment of this Court in *Jindal Stainless Ltd.*[65], which discussion though is in different context, will have some relevance to the issue at hand as well: (SCC paras 112-14)

> "*112.* It was next argued on behalf of the dealers that an unreasonably high rate of tax could by itself constitute a restriction offensive to Article 301 of the Constitution. This was according to learned counsel for the dealers acknowledged even in the minority judgment delivered by Sinha, C.J. in *Atiabari case*[74]. If that be so, the only way such a restriction could meet the constitutional requirements would be through the medium of the proviso to Article 304(*b*) of the Constitution. There is, in our opinion, no merit in that contention either and we say so for two precise reasons.
>
> *112.1.* Firstly, because taxes whether high or low do not constitute restrictions on the freedom of trade and commerce. We have held so in the previous paragraphs of the judgment based on our textual understanding of the provisions of Part XIII which is matched by the contextual

65 *Jindal Stainless Ltd.* v. *State of Haryana*, (2017) 12 SCC 1 : (2016) 11 Scale 1
74 *Atiabari Tea Co. Ltd.* v. *State of Assam*, AIR 1961 SC 232

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interpretation. That being so the mere fact that a tax casts a heavy burden is no reason for holding that it is a restriction on the freedom of trade and commerce. Any such excessive tax burden may be open to challenge under Part III of the Constitution but the extent of burden would not by itself justify the levy being struck down as a restriction contrary to Article 301 of the Constitution.

112.2. Secondly, because levy of taxes is both an attribute of sovereignty and an unavoidable necessity. No responsible Government can do without levying and collecting taxes for it is only through taxes that Governments are run and objectives of general public good achieved. The conceptual or juristic basis underlying the need for taxation has not, therefore, been disputed by the learned counsel for the dealers and, in our opinion, rightly so. That taxation is essential for fulfilling the needs of the Government is even otherwise well settled. A reference to "*A Treatise on the Constitutional Limitations*" (8th Edn., 1927 — Vol. II Page 986) by Thomas M. Cooley brings home the point with commendable clarity. Dealing with *power of taxation* Cooley says:

> "Taxes are defined to be burdens or charges imposed by the legislative power upon persons or property, to raise money for public purposes. The power to tax rests upon necessity, and is inherent in every sovereignty. The legislature of every free State will possess it under the general grant of legislative power, whether particularly specified in the Constitution among the powers to be exercised by it or not. *No constitutional Government can exist without it, and no arbitrary Government without regular and steady taxation could be anything but an oppressive and vexatious despotism, since the only alternative to taxation would be a forced extortion for the needs of Government from such persons or objects as the men in power might select as victims.*'

113. Reference may also be made to the following passage appearing in *M'Culloch* v. *Maryland*[75], where Marshall, C.J. recognised the *power of taxation* and pointed out that the only security against the abuse of such power lies in the structure of the Government itself. The Court said: (L Ed pp. 427-28, paras 43-44)

> '*43.* ... It is admitted that the power of taxing the people and their property is essential to the very existence of Government, and may be legitimately exercised on the objects to which it is applicable, to the utmost extent to which the Government may choose to carry it. *The only security against the abuse of this power is found in the structure of the Government itself. In imposing a tax, the legislature acts upon its constituents. This is, in general, a sufficient security against erroneous and oppressive taxation.*
>
> *44. The people of a State, therefore, give to their Government a right of taxing themselves and their property; and as the exigencies*

75 4 L Ed 579 : 17 US 316 (1819)

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of the Government cannot be limited, they prescribe no limits to the exercise of this right, resting confidently on the interest of the legislator, and on the influence of the constituents over their representative, to guard them against its abuse.'

114. To the same effect is the decision of this Court in *State of Madras* v. *N.K. Nataraja Mudaliar*[76] where this Court recognised that political and economic forces would operate against the levy of an unduly high rate of tax. The Court said: (AIR p. 157, para 16)

> *"16. ... Again, in a democratic Constitution political forces would operate against the levy of an unduly high rate of tax. The rate of tax on sales of a commodity may not ordinarily be based on arbitrary considerations, but in the light of the facility of trade in a particular commodity, the market conditions internal and external and the likelihood of consumers not being scared away by the price which includes a high rate of tax.* Attention must also be directed to sub-section (5) of Section 8 which authorises the State Government, notwithstanding anything contained in Section 8, in the public interest to waive tax or impose tax on sales at a lower rate on inter-State trade or commerce. It is clear that the legislature has contemplated that elasticity of rates consistent with economic forces is clearly intended to be maintained.' " (emphasis in original)

132. Therefore, it cannot be denied that there has to be some provision stating the consequences for not complying with the requirements of Section 139-AA of the Act, more particularly when these requirements are found as not violative of Articles 14 and 19 (of course, eschewing the discussion on Article 21 herein for the reasons already given). If Aadhaar number is not given, the aforesaid exercise may not be possible.

133. Having said so, it becomes clear from the aforesaid discussion that those who are not PAN holders, while applying for PAN, they are required to give Aadhaar number. This is the stipulation of sub-section (1) of Section 139-AA, which we have already upheld. At the same time, as far as existing PAN holders are concerned, since the impugned provisions are yet to be considered on the touchstone of Article 21 of the Constitution, including on the debate around right to privacy and human dignity, etc. as limbs of Article 21, we are of the opinion that till the aforesaid aspect of Article 21 is decided by the Constitution Bench a partial stay of the aforesaid proviso is necessary. Those who have already enrolled themselves under Aadhaar Scheme would comply with the requirement of sub-section (2) of Section 139-AA of the Act. Those who still want to enrol are free to do so. However, those assessees who are not Aadhaar card holders and do not comply with the provision of Section 139-AA(2), their PAN cards be not treated as invalid for the time being. It is only to facilitate other transactions which are mentioned in Rule 114-B of the Rules. We are adopting this course of action for more than one reason. We

76 AIR 1969 SC 147

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are saying so because of very severe consequences that entail in not adhering to the requirement of sub-section (2) of Section 139-AA of the Act. A person who is holder of PAN and if his PAN is invalidated, he is bound to suffer immensely in his day-to-day dealings, which situation should be avoided till the Constitution Bench authoritatively determines the argument of Article 21 of the Constitution. Since we are adopting this course of action, in the interregnum, it would be permissible for Parliament to consider as to whether there is a need to tone down the effect of the said proviso by limiting the consequences.

134. However, at the same time, we find that the proviso to Section 139-AA(2) cannot be read retrospectively. If failure to intimate the Aadhaar number renders PAN void ab initio with the deeming provision that the PAN allotted would be invalid as if the person had not applied for allotment of PAN would have rippling effect of unsettling settled rights of the parties. It has the effect of undoing all the acts done by a person on the basis of such a PAN. It may have even the effect of incurring other penal consequences under the Act for earlier period on the ground that there was no PAN registration by a particular assessee. The rights which are already accrued to a person in law cannot be taken away. Therefore, this provision needs to be read down by making it clear that it would operate prospectively.

135. Before we part with, few comments are needed, as we feel that these are absolutely essential:

135.1. Validity of Aadhaar, whether it is under the Aadhaar Scheme or the Aadhaar Act, is already under challenge on the touchstone of Article 21 of the Constitution. Various facets of Article 21 are pressed into service. First and foremost is that it violates the right to privacy and right to privacy is part of Article 21 of the Constitution. Secondly, it is also argued that it violates human dignity which is another aspect of Article 21 of the Constitution. Since the said matter has already been referred to the Constitution Bench, we have consciously avoided discussion, though submissions in this behalf have been taken note of. We feel that all the aspects of Article 21 need to be dealt with by the Constitution Bench. That is a reason we have deliberately refrained from entering into the said arena.

135.2. It was submitted by the counsel for the petitioners themselves that they would be confining their challenge to the impugned provision on Articles 14 and 19 of the Constitution as well as competence of the legislature, while addressing the arguments, other facets of Article 21 of the Constitution were also touched upon. Since we are holding that Section 139-AA of the Income Tax Act is not violative of Articles 14 and 19(1)(*g*) of the Constitution and also that there was no impediment in the way of Parliament to insert such a statutory provision [subject to reading down the proviso to sub-section (2) of Section 139-AA of the Act as given above], we make it clear that the impugned provision has passed the muster of Articles 14 and 19(1)(*g*) of the Constitution. However, more stringent test as to whether this statutory provision violates Article 21 or not is yet to be qualified. Therefore, we make it clear that constitutional validity of this provision is upheld subject to the outcome

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of batch of petitions referred to the Constitution Bench where the said issue is to be examined.

135.3. It is also necessary to highlight that a large section of citizens feel concerned about possible data leak, even when many of those support linkage of PAN with Aadhaar. This is a concern which needs to be addressed by the Government. It is important that the aforesaid apprehensions are assuaged by taking proper measures so that confidence is instilled among the public at large that there is no chance of unauthorised leakage of data whether it is done by tightening the operations of the contractors who are given the job of enrolment, they being private persons or by prescribing severe penalties to those who are found guilty of leaking the details, is the outlook of the Government. However, we emphasise that measures in this behalf are absolutely essential and it would be in the fitness of things that proper scheme in this behalf is devised at the earliest.

136. Subject to the aforesaid, these writ petitions are disposed of in the following manner:

136.1. We hold that Parliament was fully competent to enact Section 139-AA of the Act and its authority to make this law was not diluted by the orders of this Court.

136.2. We do not find any conflict between the provisions of the Aadhaar Act and Section 139-AA of the Income Tax Act inasmuch as when interpreted harmoniously, they operate in distinct fields.

136.3. Section 139-AA of the Act is not discriminatory nor it offends equality clause enshrined in Article 14 of the Constitution.

136.4. Section 139-AA is also not violative of Article 19(1)(*g*) of the Constitution insofar as it mandates giving of Aadhaar enrolment number for applying for PAN cards, in the income tax returns or notified Aadhaar enrolment number to the designated authorities. Further, the proviso to sub-section (2) thereof has to be read down to mean that it would operate only prospectively.

136.5. The validity of the provision upheld in the aforesaid manner is subject to passing the muster of Article 21 of the Constitution, which is the issue before the Constitution Bench in Writ Petition (Civil) No. 494 of 2012 and other connected matters. Till then, there shall remain a partial stay on the operation of the proviso to sub-section (2) of Section 139-AA of the Act, as described above. No costs.

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ANNEXURE- R/6

No.10(27)/2016-EG-II
Government of India
Ministry of Electronics and Information Technology

Electronics Niketan,
6 CGO Complex,
New Delhi-110003
Dated: 27th September, 2017

OFFICE MEMORANDUM

Subject: -Extension of stipulated date for Aadhaar Enrolment as mentioned in various Notifications issued by Central Ministries under Section 7 of Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 upto 31st December, 2017.

The use of Aadhaar as identifier for delivery of services/benefits/subsidies simplifies the Government delivery processes, brings in good governance, transparency and efficiency, and enables beneficiaries to get their entitlements directly to them in a convenient and hassle free manner. Aadhaar obviates the need for producing multiple documents to prove identity.

2. The Central Ministries for the purpose of using Aadhaar for delivery of services, benefits and subsidies funded from the Consolidated Fund of India have issued notifications under Section 7 of the Aadhaar Act. The list of such notifications is enclosed. The Notifications *inter alia* mention the stipulated date by which the beneficiaries of the respective scheme entitled to obtain Aadhaar as per the provisions of Section 3 of the Aadhaar Act shall have to apply for Aadhaar enrolment.

3. In order to facilitate convenient and seamless delivery of services/benefits/subsidies covered by these notifications to the intended eligible beneficiaries and avoid hardships to such beneficiaries, this Ministry earlier vide its OM dated 22.06.2017 had required the respective Ministries/Departments to extend the stipulated date in all such notifications upto 30th September, 2017. Now, as a result of the review of welfare schemes covered under such notifications and to provide the benefits of such schemes to all eligible beneficiaries of the schemes, it has been decided to further extend the stipulated date in all such notifications upto 31st December, 2017. It is hereby clarified that this extension shall only apply to those beneficiaries who are not assigned Aadhaar number or those who have not yet enrolled for Aadhaar. Such beneficiaries are required to enroll for Aadhaar by 31st December, 2017 and provide their Aadhaar number or enrolment ID as required under the respective notifications issued under Section 7 of the Aadhaar Act.

4. For such beneficiaries who have not enrolled for Aadhaar, the respective Ministries/Departments should facilitate their Aadhaar enrolments through appropriate measures in accordance with Rule 12 of Aadhaar (Enrolment and Update) Regulations, 2016 and ensure that the benefits are continued to them on the basis of alternate means of identification till they are assigned Aadhaar numbers in accordance with Section 7 of the Aadhaar Act, 2016.

5. The respective Ministries/Departments should also take special measures to issue Aadhaar numbers to women, children, senior citizens, persons with disability, unskilled and unorganized workers, nomadic tribes or to such other persons who do not have any permanent dwelling house etc. in accordance with Section 5 of the Aadhaar Act, 2016, to ensure that the services/benefits are not denied to the eligible beneficiaries.

6. The respective Ministries/Departments should issue necessary orders in this regard and provide wide publicity for the information of their beneficiaries and public at large.

(Rakesh Maheshwari)
Group Coordinator(Cyber Law and UIDAI)

To Secretaries to Government of India
All Central Ministries/Department

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ANNEXURE-R/7

THE TIMES OF INDIA

One cybercrime in India every 10 minutes

TNN | Jul 22, 2017, 02.17 AM IST

One cybercrime in India every 10 minutes

BENGALURU: From the global ransomware attacks that hit hundreds of systems to phishing and scanning rackets, at least one cybercrime + was reported every 10 minutes in India in the first six months of 2017. That's higher than a crime every 12 minutes in 2016.

According to the Indian Computer Emergency Response Team (CERT-In), 27,482 cases of cybercrime were reported from January to June. These include phishing, scanning or probing, site intrusions, defacements, virus or malicious code, ransomware and denial-of-service attacks. With more Indians going online, cyber experts said putting in place critical infrastructure to predict and prevent cybercrimes was crucial. India has seen a total of 1.71 lakh cybercrimes in the past three-and-a-half years and the number of crimes so far this year (27,482) indicate that the total number is likely to cross 50,000 by December, just as in 2016. "It is not just enough to make efforts at the government level, which is, in some sense happening, but cybercrime affects hundreds of individual systems and firms, all of whom need to be ready with specialised teams," cybercrime expert Mirza Faizan Asad said.

While India has been dealing with crimes such as phishing and defacement, ransomware attacks have come as a surprise. Analysis of data from 2013 to 2016 shows that network scanning and probing — seen as the first step to

detect vulnerabilities in systems so that sensitive data can be stolen — formed 6.7% of all cases while virus or malware accounted for 17.2%.

Experts pointed out that these were indications of increasing cybercrime-asa-service (CAAS), besides attempts at ransomware.

"There has to be a concerted effort to treat cyber security seriously... The vast majority of organisations are looking at cyber security as a compliance task and thus do the minimum possible to achieve that," Asad said.

Increasing ransomware threat and the demand for ransom in bitcoins — a crypto-currency which attackers feel is the safest way to get paid — saw the SC direct the RBI to take cognisance of the matter. The RBI has also been issuing regular warnings on bitcoins.

844
ANNEXURE-R/8

Big spike in cybercrimes

The total number of cyber crimes reported in 2013 was 41,319, which rose to 49,455 in 2015

Latest statistics released by the National Crime Records Bureau (NCRB) reflect a massive spike in cybercrimes in India. The total number of cybercrimes reported in 2013 was 41,319, which rose to 49,455 in 2015. The number of cases reported this year till March stands at 14,363.

More than 28,000 hacking incidents were reported in 2013, and over 32,000 in 2014. The NCRB report shows that in 2015, Uttar Pradesh registered the highest number of cybercrimes in the country with 2,208 cases.

Maharashtra registered 2,195 and 1,879 cases in 2015 and 2014, respectively. According to the NCRB, 3,089 males in the age group of 18 to 30 were arrested for cyber crimes in 2015.

BIG SPIKE IN CYBERCRIMES

845

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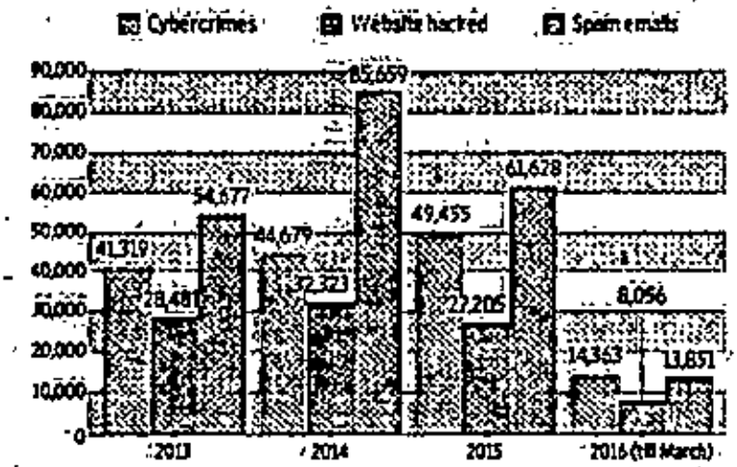
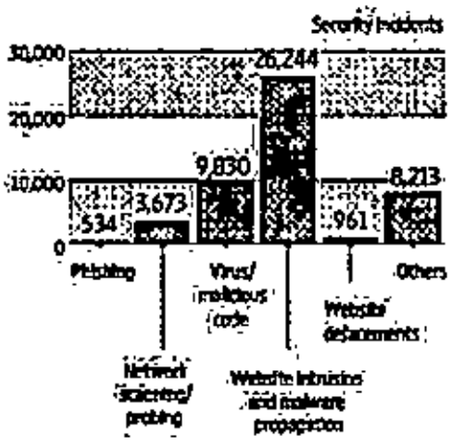
Cybercrimes in India

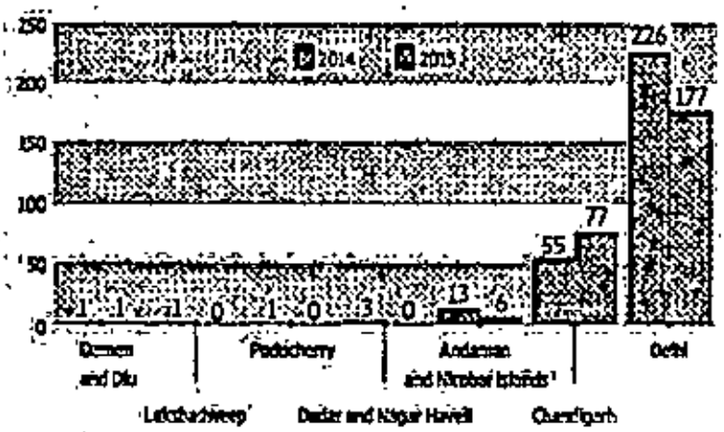


Tracking Indian website defacements

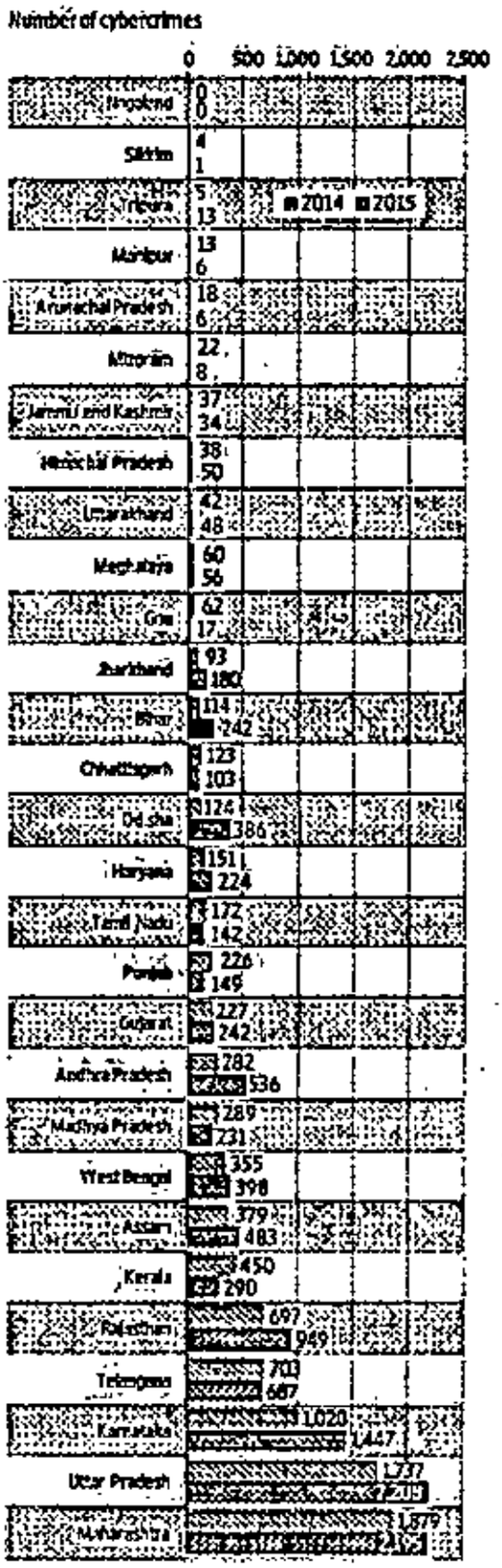
Abuse statistics



Cybercrimes reported in Union territories



Cybercrimes reported in states



Graphic by Ajay Negi/TV et

Source: NCRB; data compiled by Digital Empowerment Foundation

ANNEXURE-R/9
846

Source: https://www.theguardian.com/technology/2016/dec/14/yahoo-hack-security-of-one-billion-accounts-breached

Yahoo hack: 1bn accounts compromised by biggest data breach in history

The latest incident to emerge – which happened in 2013 – is probably distinct from the breach of 500m user accounts in 2014

Sam Thielman in New York

Thursday 15 December 2016 12.23 GMT

Yahoo said on Wednesday it had discovered another major cyber attack, saying data from more than 1bn user accounts was compromised in August 2013, making it the largest such breach in history.

The number of affected accounts was double the number implicated in a 2014 breach that the internet company disclosed in September and blamed on hackers working on behalf of a government.

"An unauthorised party" broke into the accounts, Yahoo said in a statement posted on its website. The company believes the hacks are connected and that the breaches are "state-sponsored".

The hackers used "forged 'cookies'" – bits of code that stay in the user's browser cache so that a website doesn't require a login with every visit, wrote Yahoo's chief information security officer, Bob Lord. The cookies "could allow an intruder to access users' accounts without a password" by misidentifying anyone using them as the owner of an email account. The breach may be related to theft of Yahoo's proprietary code, Lord said.

The company began to suspect the breach in November, when law enforcement approached the company with what a third party claimed was "user data;" Lord's post suggests that the data included forged cookies.

"For years I have been urging friends and family to migrate off of Yahoo email, mainly because I watched for years as the company appeared to fall far behind its peers in blocking spam and other email-based attacks," wrote security researcher Brian Krebs as news of the attack broke. "I stand by that recommendation."

Yahoo said the stolen user account information may have included names, email addresses, telephone numbers, dates of birth, hashed passwords and, in some cases, encrypted or unencrypted security questions and answers.

After Yahoo revealed the smaller – but still historic – security breach in September, six US senators sent Yahoo a letter demanding the company reveal exactly when it had learned of the intrusion. Vermont senator Patrick Leahy, ranking member of the senate judiciary committe, called for a hearing; no hearing has been scheduled thus far.

The senators, including Leahy, said they were "disturbed that user information was first compromised in 2014, yet the company only announced the breach last week." The six legislators found the reveleation that "millions of Americans' data may have been compromised for two years" to be "unacceptable."

The company is being acquired by Verizon for $4.8bn but the sale has not been an easy one. In October, a report revealed that the company had cooperated with the NSA to scan users' emails for keywords on behalf of the agency.

A Verizon lawyer, Craig Silliman, said that the September breach had clearly damaged Yahoo's value and hinted that the damage ought to be reflected in the buying price. "I think we have a reasonable basis to believe right now that the impact is material and we're looking to Yahoo to demonstrate to us the full impact," Silliman told reporters in October. "If they believe that it's not, then they'll need to show us that."

https://www.theguardian.com/technology/2016/dec/14/yahoo-hack-security-of-one-billion-accounts-breached

Email breaches remain especially vexing to users, since they can reveal bank and family details as well as passwords that users share between systems or have received in their email accounts. Password-sharing has become so common that databases of login information are often used by hackers to test for email-and-password combinations on retailer websites like Walmart or Amazon.

Payment card data and bank account information were not stored in the system believed to be affected, the company said. Yahoo is notifying all the users affected and asking them to change their passwords. Yahoo owns assets far beyond its popular webmail service and its news site: other properties include blogging platform Tumblr and photo-sharing site Flickr, as well as Yahoo Finance.

https://www.theguardian.com/technology/2016/dec/14/yahoo-hack-security-of-one-billion-accounts-breached

ANNEXURE- R/10
850

Source: http://www.telegraph.co.uk/technology/2017/09/25/deloitte-hit-cyber-attack/

Deloitte hit by cyber attack

By Telegraph Reporters and Reuters

25 SEPTEMBER 2017 • 5:12PM

Global accountancy firm Deloitte has been hit in a cyber attack that compromised the data of a small number of its clients.

The company said attackers had accessed data from its email platform, but gave few details about how its systems had been breached.

Deloitte, one of the "big four" accountants, said it has mobilised a team of cyber-security experts to review its systems and discover what information has been put at risk.

It said "very few" clients had been affected.

"No disruption has occurred to client businesses, to Deloitte's ability to continue to serve clients, or to consumers," the company said.

The firm, which provides auditing, tax advice and consultancy to multinationals and governments, did not say when the attack occurred or how its defences had been breached.

Deloitte discovered the hack in March, but the cyber attackers could have had breached its systems as long ago as October or November 2016, according to the Guardian.

The attack is believed to have targeted the company's US operations.

Deloitte's statement did not say when the attack took place or who was targeted.

Deloitte, which also provides cyber security and consulting services, including helping businesses analyse potential acquisition targets, did not say which units were affected.

It said it had implemented its comprehensive security protocol and began an intensive and thorough review including mobilising a team of cyber security and confidentiality experts inside and outside of Deloitte.

The firm said it contacted government authorities immediately after it became aware of the incident, and it had contacted each client that had been affected.

ANNEXURE- P/11
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Source: https://economictimes.indiatimes.com/small-biz/security-tech/security/zomato-hacked-security-breach-results-in-17-million-user-data-stolen/articleshow/58729251.cms

Zomato hacked: Security breach results in 17 million user data stolen

By *Anu Thomas*, ET Online |

Updated: May 19, 2017, 10.18 AM IST

Zomato has suffered a security breach with over 17 million user records stolen from the food-tech company's database. The stolen information has email addresses and hashed passwords of customers. According to Hackeread.com, a user by the name of "nclay" claimed to have hacked Zomato and was willing to sell data pertaining to 17 million registered users on a popular Dark Web marketplace. This included emails and password hashes of registered Zomato users with the price set for the whole package at $1,001.43 (BTC 0.5587) - BTC here stands for Bitcoins. Hackeread adds the vendor also published data and evidence to prove it was genuine. Hashing turns an original password into an incoherent set of characters, bringing down the possibility of it being easily converted back to plain text. Furthermore, passwords of Zomato's 120 million users are reportedly salted as well,

whereby characters are added at random before the password hashed, rendering it unintelligible even if the hash is translated.

Although in theory the password may still be safe, Zomato is encouraging its users to change that password if used for any other services.

Amid the news of the leak, no payment information or credit card data has been stolen, the company said in a note released to the press. 'In our security investigation, we have found no evidence of unauthorized access to financial information,' it states. 'Payment related information on Zomato is stored separately from this (stolen) data in a highly secure PCI Data Security Standard (DSS) compliant vault,' it further added. Despite assurances that increased levels of precautions were made to safeguard users' data, the company, as a preventive measure, has reset the passwords for all affected users and logged them out of its app and website. 'Since we have reset the passwords, affected users' Zomato account as well as credit card information is secure, so there is nothing to worry about there.'

In the blogpost, Zomato has attributed human error as the cause of the security breach where an employee's development account got compromised. 'Our team is actively scanning all possible breach vectors and closing any gaps in our

https://economictimes.indiatimes.com/small-biz/security-tech/security/zomato-hacked-security-breach-results-in-17-million-user-data-stolen/articleshow/58729251.cms

environment,' the blog stated.

Over the next couple of weeks, the company will reportedly work towards plugging further security gaps - if any - in its systems. This will include adding a layer of authorisation for internal teams having access to such data to avoid the possibility of any human breach.

Here is the full text of Zomato's statement:
Over 120 million users visit Zomato every month. What binds all of these varied individuals, is the desire to enjoy the best a city has to offer, in terms of food. When Zomato users trust us with their personal information, they naturally expect the information to be safeguarded. And that's something we do diligently, without fail. We take cyber security very seriously - if you've been a regular at Zomato for years, you'd agree.

The reason you're reading this blog post is because of a recent discovery by our security team - about 17 million user records from our database were stolen. The stolen information has user email addresses and hashed passwords.
We hash passwords with a one-way hashing algorithm, with multiple hashing iterations and individual salt per password. This means your password cannot be easily converted back to plain text. We however, strongly advise you to change your

password for any other services where you are using the same password.

Important note - payment related information on Zomato is stored separately from this (stolen) data in a highly secure PCI Data Security Standard (DSS) compliant vault. No payment information or credit card data has been stolen/leaked.

As a precaution, we have reset the passwords for all affected users and logged them out of the app and website. Our team is actively scanning all possible breach vectors and closing any gaps in our environment. So far, it looks like an internal (human) security breach - some employee's development account got compromised.

How can this stolen information be misused?
Since we have reset the passwords for all affected users and logged them out of the app and website, your zomato account is secure. Your credit card information on Zomato is fully secure, so there's nothing to worry about there.

What next?
Over the next couple of days and weeks, we'll be actively working to plug any more security gaps that we find in our systems.

https://economictimes.indiatimes.com/small-biz/security-tech/security/zomato-hacked-security-breach-results-in-17-million-user-data-stolen/articleshow/58729251.cms

We'll be further enhancing security measures for all user information stored within our database

A layer of authorisation will be added for internal teams having access to this data to avoid the possibility of any human breach.

We regret any disruption this may cause and appreciate your immediate attention to this information. If you have queries/concerns, please do not hesitate to contact our security team by sending an email directly to support@zomato.com and we'll reach out to you right away.

https://economictimes.indiatimes.com/small-biz/security-tech/security/zomato-hacked-security-breach-results-in-17-million-user-data-stolen/articleshow/58729251.cms

ANNEXURE R/12
857

Source: https://www.cnbc.com/2017/09/07/credit-reporting-firm-equifax-says-cybersecurity-incident-could-potentially-affect-143-million-us-consumers.html

Credit reporting firm Equifax says data breach could potentially affect 143 million US consumers

- Equifax said data on 143 million U.S. customers was obtained in a breach.
- The breach was discovered July 29.
- Personal data including birth dates, credit card numbers and more were obtained in the breach.
- Three Equifax executives sold shares in the company days after the breach was discovered.

Todd Haselton | @robotodd

Published 4:34 PM ET Thu, 7 Sept 2017 Updated 3:25 PM ET Fri, 8 Sept 2017

Equifax, which supplies credit information and other information services, said Thursday that a data breach could potentially affect 143 million consumers in the United States.

The population of the U.S. was about 324 million in 2017, according to Census Bureau estimates, which means the Equifax incident affects a huge portion of the country.

Equifax said it discovered the breach on July 29. "Criminals exploited a U.S. website application vulnerability to gain access to certain files," the company said.

SEC filings show that three Equifax executives – Chief Financial Officer John Gamble Jr., workforce solutions president Rodolfo Ploder and U.S. information solutions president Joseph Loughran – sold nearly $2 million in shares in the company days after the cyberattack was discovered. It was unclear whether their share sales had anything to do with the breach.

Equifax said in a statement that the three executives sold a "small percentage" of their shares on Tuesday, August 1, and Wednesday, August 2, adding they "had no knowledge that an intrusion had occurred at the time they sold their shares."

The SEC declined to comment on the share sales.

Bloomberg News first reported the share sales.

Shares of Equifax fell more than 12 percent in after-hours trading.

The company said the exposed data include names, birth dates, Social Security numbers, addresses and some driver's license numbers, all of which Equifax aims to protect for its customers.

Equifax added that 209,000 U.S. credit card numbers were obtained, in addition to "certain dispute documents with

https://www.cnbc.com/2017/09/07/credit-reporting-firm-equifax-says-cybersecurity-incident-could-potentially-affect-143-million-us-consumers.html

personal identifying information for approximately 182,000 U.S. consumers."

"This is a security risk for any and every website that anyone uses," Christopher O'Rourke, founder and CEO of cybersecurity firm Soteria, told CNBC. "Most often, security questions to access those websites use that data, like a previous address, so this becomes an open-source intelligence nightmare, worse in many ways than the Office of Personnel Management government breach. It's nasty. If I can get my hands on that information I can call a bank. They're going to ask me for your Social, address, the information that was leaked here, to get access."

Equifax Chairman and CEO Richard Smith apologized to consumers and customers and noted that he's aware the breach affects what the company is supposed to protect.

Equifax said it is now alerting customers whose information was included in the breach via mail, and is working with state and federal authorities. Its private investigation into the breach is complete. NBC News, citing law enforcement sources, reported that the FBI was actively investigating the incident and that the company has been cooperating with the bureau.

https://www.cnbc.com/2017/09/07/credit-reporting-firm-equifax-says-cybersecurity-incident-could-potentially-affect-143-million-us-consumers.html

Join CNBC, the Aspen Institute and the most influential cybersecurity players from government, business and tech at the *Cambridge Cyber Summit, October 4* in Boston.

Correction: A previous version of this story misidentified the Office of Personnel Management.

— CNBC's Mike Calia contributed to this report.

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ANNEXURE- R/13

BANKINFOSECURITY®

https://www.bankinfosecurity.com

Data Breach

Hackers Leak Data of 5 South Asian Banks

Same Group That Leaked Data From QNB, InvestBank Apparently Involved

Varun Haran (@APACInfosec) · May 11, 2016 0 Comments

Data purportedly belonging to five South Asian banks was apparently posted online May 10 by the Turkish hacking group Bozkurtlar that recently also leaked data tied to Qatar National Bank and UAE's InvestBank.

See Also: IoT is Happening Now: Are You Prepared?

The latest banks whose data has been posted online include the Dutch Bangla Bank, The City Bank and Trust Bank, all based in Dhaka, Bangladesh; and two Nepalese banks, Business Universal Development Bank and Sanima Bank, both based in Kathmandu, Nepal.

Links to the file archives containing data from all the banks have been posted from a Twitter account supposedly operated by Turkish hacking group "Bozkurtlar" - or "Grey Wolves." The group appears to be making good on their threat to release data of more Asian banks - an indication that more such disclosures may be expected in the region, in the near future.

Analyzing the Data

The latest targeted banks have not replied to a request for comment from Information Security Media Group. Several security experts who have been following Bozkurtlar say that while the data in the newest leak appears genuine, the volume of data from these five banks is relatively small compared to the massive QNB and InvestBank dumps

The file archives posted were 251 MB for Business Universal Development Bank, 47 MB for Sanima Bank, 11.2 MB for The City Bank, and 312 and 95 Kilobytes for Dutch Bangla Bank and Trust Bank, respectively.

The scope of the data varies widely. But preliminary analysis, researchers say, shows that each of the zip files contains at least some customer information or account credentials.

Security engineer and RootedCON conference organizer Omar Benbouazza tells ISMG that his analysis of the data points to a webshell upload being used at Sanima Bank and the Dutch Bangla Bank, as was the case of the Qatar National Bank. A webshell is a piece of code uploaded to a server or computer, allowing attackers to gain access, escalate privileges as admin/root and control the entire system. It can also can be used to extract the entire information stored in the system.

A primary researcher in this case, who requested anonymity, says that the data posted for each of the banks appears to be old - the latest being from The City Bank dates to August 2015. This, he says, raises a question about whether the leaks are the result of recent breaches, as claimed by Bozkurtlar, or if the group has simple aggregated data from older incidents and posted it.

In a statement shared with ISMG, InvestBank says the data tied to the bank is from a breach in December 2015. "No new hack has happened, as claimed by these attackers," InvestBank says.

Content of Latest Leaks

The researcher who asked not to be named says that while the latest postings do not seem as significant as the previous two disclosures, there are still elements that should be of concern. No credit card numbers are present in the latest data dump, unlike the QNB and InvestBank leaks, he says. Taking each of the bank's data individually, attempts have been made to verify the authenticity.

His analysis of the data reveals the following

- **Dutch Bangla Bank - Dhaka, Bangladesh:** This 312 KB archive appears to contain records of customer banking transactions - either physical or internet banking. The researcher says that using admin credentials found in clear text in the dump, he was able to gain access from the public internet to the bank's ATM transaction analyzer for research purposes. The username/password appear to be very simple or default, he explains. "The website of Dutch Bangla bank appears to contain vulnerabilities and could have been the point of penetration to the internal servers or files."

- **Trust Bank - Dhaka, Bangladesh:** The smallest archive at 96 KBs, the file contains two spreadsheets that, among other things, contain user ID, email, username and encrypted passwords. The latest file is from June 2015.

- **The City Bank - Dhaka, Bangladesh:** This 11.2 MB dump has a single spreadsheet, which appears to contain the personal information of at least 1 million bank customers. Details include: full name, father's name, mother name, date of birth, age, mailing address, contact number, permanent address and email. The most recent data is from August 2015.

- **Sanima Bank - Kathmandu, Nepal:** This 47 MB archive contains a spreadsheet with customer information that includes name, account balance with current withdrawal and deposit details for the account. The most recent data is from February 2015. The bank's website appears to have been recently upgraded to enhance security, according to a message on the site, which asks users to change their passwords. An April 21, 2015 op-ed column in the online edition of the *Kathmandu Post* newspaper refers to fraud having taken place at Sanima Bank, although no other mention of the fraud is available on the site.

- **BUD Bank - Kathmandu, Nepal:** The largest of the archives released by Bozkurtlar hackers on May 10, the 251 MB file appears to contain email communication of senior management and managers in Microsoft Outlook format. The data also contains phone-banking customer details, including phone number, username, encrypted password and customer ID. The most recent data is from January 2015.

InvestBank Denies New Hack Took Place

InvestBank stressed in a statement provided to ISMG on May 10 that no new hack has taken place this year. "This is the same set of old data [from a previous incident] that has been released again for unknown reasons," the bank says. "We have not been contacted by anyone, [and are] unable to speculate on the motives or confirm whether or not it is the same group."

InvestBank, which acknowledges that it suffered a data breach last December, says that publishing the data - and the ensuing media attention - has had a negative impact on its business. The bank declined to provide further details about the breach.

Sources at the bank tell ISMG that after the 2015 breach, the bank underwent a complete forensic analysis by federal agencies and private investigators, following which reports were submitted to the regulator and steps taken to harden security. Threat intelligence firm iSight Partners has also published analysis that suggested that the recent leak - perpetrated by actors using the names "Bozkurt Hackers" and "AntiQN8" - appears to correlate with the 2015 InvestBank leak.

"This new claimed leak of InvestBank data seems to corroborate our previous suggestion that there may be a link between these actors and 'Hacker Buba,' who leaked data from InvestBank in ... 2015," it says in a research note

But one researcher analyzing the May 7 data dump claims the InvestBank data does not extend beyond October 2015. The data dump appears to have been taken from a single system, possibly belonging to the database administrator at InvestBank, whose details have been found in a personal folder with the dump, the researcher says. InvestBank declined to comment on the idea.

About the Author

Varun Haran
Global Director of Programming - Editorial, and Senior Editor, ISMG

Haran has been a technology journalist in the Indian market for over six years, covering the enterprise technology segment and specializing in information security. He has driven multiple industry events such as the India Computer Security Conferences (ICSC) and the first edition of the Ground Zero Summit 2013 during his stint at UBM. Prior to joining ISMG, Haran was first a reporter with TechTarget writing for SearchSecurity and SearchCIO; and later, correspondent with InformationWeek, where he covered enterprise technology-related topics for the CIO and IT practitioner.

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Source: https://economictimes.indiatimes.com/industry/banking/finance/banking/3-2-million-debit-cards-compromised-sbi-hdfc-bank-icici-yes-bank-and-axis-worst-hit/printarticle/54945561.cms

3.2 million debit cards compromised; SBI, HDFC Bank, ICICI, YES Bank and Axis worst hit

BY , ET BUREAU | UPDATED: OCT 20, 2016, 04.47 PM IST

MUMBAI: Banks in India will either replace or ask users to change the security codes of as many as 3.2 million debit cards in what's emerging as one of the biggest ever breaches of financial data in India, people aware of the matter said. Several victims have reported unauthorised usage from locations in China.

Of the cards, 2.6 million are said to be on the Visa and Master-Card platform and 600,000 on the RuPay platform. The worst-hit of the card-issuing banks are State Bank of India, HDFC Bank, ICICI Bank, YES Bank and Axis Bank, the people said.

The breach is said to have originated in malware introduced in systems of Hitachi Payment Services, enabling fraudsters to steal information allowing them to steal funds. Hitachi, which provides ATM, point of sale (PoS) and other services, couldn't be reached for comment late Wednesday.

A forensic audit has now been ordered by Payments Council of India on Indian bank servers and systems to detect the origin

of frauds that might have hit customer accounts. NPCI Managing Director AP Hota said: "We have received complaints from banks about debit cards being used in China which aroused suspicion."

"Though most of the suspected fraudulent transactions happened in the Visa and MasterCard network, we thought a whole a forensic audit of the entire network will help us find out where the compromise happened," he said.

HDFC Bank said it had already taken action in the matter a few weeks back. "Besides advising those customers who we know have used a non-HDFC Bank ATM in the recent past to change (their) ATM PIN, we are advising our customers to use only HDFC Bank ATMs as we believe security controls at some of the other bank ATMs may not be at par with HDFC Bank ATMs," a spokesperson said. "We take this opportunity to reiterate that it's always prudent to change ATM PINs from time to time. It prevents misuse."

The Times of India had reported on Wednesday that SBI would reissue 600,000 debit cards following a malware-related security breach. SBI has asked customers to change their PIN numbers as well.

"Based on the complaints we have received, we are suspecting a compromise on the non-SBI ATM network which could

include various white-label ATM service providers," SBI Chief Information Officer Mrutyunjay Mahapatra told ET.

"Therefore, as a precautionary measure, we have blocked six lakh debit cards. We have assured our customers that there has not been any breach on the ATM network of SBI."

Visa, MasterCard, ICICI Bank, Axis Bank and YES Bank did not respond to queries sent late on Wednesday.

Banks had been receiving multiple complaints from customers about cards being used in China at various ATMs and point of sale terminals. They in turn alerted Visa and MasterCard. A forensic audit is being conducted by Bengaluru-based payment security specialist SISA.

Some sources said the malware infection took about six weeks to detect, compromising transactions that took place during this period. As many as 3.2 million cards were used on the Hitachi network during this time.

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14th September, 2017

Report of the Committee to undertake Outcome Review of the UID Scheme

A Committee comprising of following members was constituted to undertake Outcome Review of UID Scheme -

(i) Dr. Prof. Deepak B. Phatak, Dept. of CSE, IIT Mumbai	----	Chairperson
(ii) Dr Prof. Rajat Moona, Director, IIT Bhilai	---	Member
(iii) Dr Prof. S. Sadagopan, Director, IIIT Bangalore	----	Member

Smt. Deepali Sharma, ADG, UIDAI was deputed as the convener of the Committee.

2. The Committee was constituted as per the directives of the Ministry of Finance's OM Nos. 42(02)/PF-II/2014 dated 23.02.2017 and 27.03.2017 (copies enclosed), in which, the scheme owner Ministries are directed to undertake an outcome review of their schemes at the end of 12th Five Year Plan (March 2017) and submit the same for appraisal & approval of Expenditure Finance Committee (EFC) for continuation beyond 12th Plan to make them co-terminus with the 14th Finance Commission Period or beyond.

3. The Terms of Reference (ToR) of the Committee are to:

   (i) Carryout an outcome review of UID scheme.

   (ii) Evaluate whether the scheme is effective in delivering its objectives and whether there is a need for continuation of the scheme in view of its mandate and performance.

   (iii) Ascertain whether the scheme can continue in its present from and suggest changes, if needed.

   (iv) Any other suggestion.

4. The Committee met on 28.08,2017 at Indian Institute of Technology, Mumbai and then on 14.09.2017 at UIDAI Technology Center, Bangalore to discuss the overall objectives of UID Scheme, performance and achievements of UIDAI till March 2017, and future plans of UIDAI.

5. The report of the Committee is attached herewith.

Dr. Prof. Deepak B. Phatak	Dr Prof. Rajat Moona	Dr Prof. S. Sadagopan
(Dept. of CSE, IIT Mumbai)	(Director, IIT Bhilai)	(Director, IIIT Bangalore)

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Report of the committee
On
The Outcome Review of the UID Scheme

Submitted by

Prof. Rajat Moona, Director, IIT Bhilai

Prof. S. Sadagopan, Director, IIIT Bangalore

Prof. Deepak B. Phatak, Dept. of CSE, IIT Bombay

Submitted on

14 September 2017

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Report of the committee on the outcome review of the UID scheme
[Summary for executive perusal]

1. A committee was constituted on 21 August 2017, to undertake the outcome review of the Unique Identification Scheme (UID), comprising Prof. Rajat Moona, Prof. S. Sadagopan, and Prof. Deepak B. Phatak (Chairman).

2. Committee first collected the necessary background information from UIDAI. Two meetings were held. In each of these, UIDAI officials were requested to make detailed presentations on all aspects of the scheme. Clarifications were sought where needed, which were duly provided. During one of the meetings, the committee visited the Data Centre in Bengaluru. The visit was primarily to ascertain that the large server and storage farms have been installed with a world class infrastructure. An additional objective was to appraise first-hand, the data security measures being implemented.

3. After extensive examination of all facets, the committee has prepared its report. Main observations and recommendations of the committee, with respect to specific ToRs (Terms of Reference), are summarized below:

ToR 1: Committee has carried out a detailed review of the outcome of the UID scheme, and notes that the objectives have been fully achieved, and further, have been surpassed.

ToR 2: Committee finds that the Scheme has been successful in delivering its objectives. Committee notes that critical identity authentication service is provided by the scheme. This is being used by various Government and Non-Government Services like Subsidy Benefits, Pensions, Scholarships, Social Benefits, Banking, Insurance, Taxation, Education, Employment, Healthcare, etc. It is necessary to cover the number of newborn Indians (About 2 Crore per year), as also to capture the biometric updates at the age of 5 and 15. The committee is of the opinion that the scheme, in fact, must run in perpetuity. Committee strongly recommends continuation of the scheme, with adequate financial support.

ToR 3: Committee recommends that the scheme can and should run in its present form.

ToR 4: Committee has made several recommendations to enhance the efficacy and effectiveness of the scheme. Committee notes with satisfaction that enhanced security measures have been undertaken. It recommends that these be speedily implemented.

4. Committee wishes to put on record that the concerned officials of UAIDI tirelessly worked to provide all the information required by the committee.

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14 September 2017

Report of the Committee on the Outcome Review of the UID Scheme

1. *Preamble*

UIDAI was established in the year 2009, as an attached office of the then Planning Commission (now NITI Aayog), vide its Gazette Notification No.A-43011/02/2009-Admn.I dated 28 January2009. Subsequently, the Government revised the Allocation of Business Rules on 12 September 2015, to attach UIDAI to the then Department of Electronics & Information Technology (DeitY), Ministry of Communications and Information Technology, now Ministry of Electronics & Information Technology (MeitY). As on today, the Unique Identification Authority of India (UIDAI) is a statutory authority established under the provisions of Aadhaar Act, 2016, under the Ministry of Electronics and Information Technology (MeitY).

A Committee comprising the following members was constituted to undertake Outcome Review of UID Scheme -

(i) Prof. Deepak B. Phatak, Dept. of CSE, IIT Mumbai	Chairperson
(ii) Prof. Rajat Moona, Director, IIT Bhilai	Member
(iii) Prof. S. Sadagopan, Director, IIIT Bangalore	Member

Smt. Deepali Sharma, ADG, UIDAI, was deputed as the convener of the Committee.

The Committee was constituted as per the directives of the Ministry of Finance's OM Nos. 42(02)/PF-II/2014 dated 23.02.2017 and 27.03.2017 (copies enclosed), in which the scheme owner Ministries are directed to undertake an outcome review of their schemes at the end of 12th Five Year Plan (March 2017), and submit the same for appraisal and approval of Expenditure Finance Committee (EFC) for continuation beyond 12th Plan, to make them co-terminus with the 14th Finance Commission Period or beyond.

The Terms of Reference (ToR) of the Committee were:

(i) Carry out an outcome review of UID scheme.

(ii) Evaluate whether the scheme is effective in delivering its objectives, and whether there is a need for continuation of the scheme in view of its mandate and performance.

(iii) Ascertain whether the scheme can continue in its present from, and suggest changes if needed.

(iv) Make any other suggestion.

This report provides the detailed findings of the committee, and its recommendations.

2. *Approach and Methodology adopted by the committee*

Members of the committee were generally familiar with the work that has been done so far by the UIDAI, as also its widespread use by several other schemes and programs. However, a critical assessment of the outcomes necessitated a very detailed analysis of the progress made, as also to understand how the scheme will benefit in future years, if recommended for continuation.

In view of the above, the committee decided to adopt the following approach:

1. UIDAI was requested to provide detailed background information, along with supporting documents.

2. Members studied this material, raised queries where needed, and sought clarifications. All members were kept informed of such clarifications.

3. The Committee conducted its first meeting on 28.08.2017 at Indian Institute of Technology Bombay, Mumbai. In this meeting, UIDAI officials were requested to make brief presentations on the achievements of the scheme, and proposed activities in case the scheme is continued.

4. Members then discussed these inputs over next several days. It was felt that a visit to the main Data Centre should be undertaken, to ensure that the infrastructure is well established as per global norms, and also to obtain a first-hand understanding of the data security measures implemented by UIDAI.

5. The second and final meeting of the committee, was held in Bengaluru on 14 September 2017. Members visited the Data Centre. Detailed explanation was provided by the Data Centre team about the basic infrastructure, and how it meets the global standards. Committee was informed that the second Data Centre in Manesar has been so planned as to meet the requirement of having two facilities in two different Seismic zones.

6. Specific inputs were sought by the committee regarding the data security measures incorporated. Presentations were made by the concerned team leaders, explaining the measures which have already been put in place. Members pointed out that data security needs to be enhanced on a continuous basis. A detailed presentation was made on the continuous efforts being taken in this regard.

The committee prepared this final report at the conclusion of the second meeting. Details, wherever required, have been provided by the UIDAI officials. After confirming the correctness of the information as per records, the committee has included the relevant details in appropriate annexures.

3. Detailed report

Section 23 of the Aadhaar Act outlines the powers and functions of the Authority, as presented **in Annexure 1.**

A detailed document on Establishment of UIDAI by executive order, mandate of UIDAI, fund approvals for UID Scheme by the government in 5 phases, performance of scheme against the targets and other areas, figures showing UID as a net positive Scheme, and justification for continuation of the Scheme, was shared with the committee members. A presentation on the same was also given to the Committee by UIDAI, in the first meeting held at IIT, Mumbai. As desired, by the committee, in the first meeting, detailed notes on data security and privacy safeguards taken by UIDAI, and Aadhaar grievance redressal mechanism, were shared with the Committee before second meeting. During the second meeting, detailed presentations on data security and privacy safeguards in UIDAI and various new data security initiatives, like Secure Aadhaar Enrolment system, Aadhaar virtual ID, and Registered Devices, were made to the Committee, followed by a visit to the Data Center, Bangalore.

The committee deliberated on performance and achievements of UIDAI, during these meetings, and held detailed discussions on the technology architecture, information security systems, and legal framework adopted by UIDAI for ensuring data security and privacy of Aadhaar holders.

The brief of the discussions and conclusions of the committee in both meetings, are given below:

1. UIDAI has been allocated funds in five sets of financial installments, for the establishment of UIDAI, and fulfilling its mandate. Approvals totaling Rs 13,663.22 crore have been granted to UIDAI in five (5) phases, and Revised Cost Estimate (RCE) of Rs 150.26 crore was subsequently sanctioned by the Competent Authority as per Department of Expenditure, Ministry of Finance O.M. No. 24(35)/PF-II/2012 dated 29.08.2014 and 05 August 2016, making the total scheme fund approval to total Rs 13813.48 crore. A statement showing component-wise EFC approvals in five phases, and the expenditure incurred up to March 2017,as presented to the committee, is given in **Annexure2**.
2. The committee noted that the achievements of UIDAI have been far beyond the targets given. UIDAI was allocated Rs.13,663.22 crore to cover enrolment of 91.62 crore residents against which UIDAI has generated 113.28 crore Aadhaar numbers by March 2017, within a total expenditure of Rs 8793.86 crore. This brings per unit cost of issuing Aadhaar, to Rs 77.62 only, which includes expenditure on 2.54 crore updates, 554.17 crore authentication, and 117.01 crore e-KYC transactions.
3. The Committee acknowledged that UIDAI is the largest biometric based unique identity system, which is unparalleled in the world. The committee noted that UIDAI has overall achieved its given target, and in fact has surpassed it. UID scheme has rendered direct economic benefits to the tune of Rs 57,030 crore by the end of FY 2016-17 to the government, as captured by DBT Mission. Overall achievements of Aadhaar are presented in brief in **Annexure 3 (A)**. In addition, Aadhaar linkage has benefitted the government and Aadhaar holders, in many other ways, as presented in **Annexure 3 (B)** which clearly outlines it as a net positive scheme.
4. UIDAI commenced Aadhaar generation in 2010 from a hired Data Centre (DC) in Bangalore. Subsequently, Disaster Recovery (DR) Data Centre was hired in 2011 in Greater NOIDA. UIDAI managed its operations from the two hired Data Centers till 2015 wherein, approx. 90 crore Aadhaar were generated, and a number of services like update, authentication, eKYC, etc were launched. UIDAI's own DC and non DC buildings were completed in 2015 and UIDAI migrated its operations from hired DC to Hebbal (Bangalore) DC, in December 2015, and to Manesar DC, in June 2016, without any interruption in services.
5. The committee reviewed the Aadhaar enrolment status in states and UTs, and appreciated the overall progress. The committee suggested UIDAI to focus on covering left out population in states where more than 1 crore population is remaining, in particular, in the 0-5 years and 5-18 years age group. The committee advised UIDAI to focus more on providing Aadhaar Authentication, Updation services, and grievance handling.
6. The committee appreciated progress on proliferation of Aadhaar authentication services through its 27 Authentication Service Agencies, 326 Authentication User Agencies, and 255 eKYC User Agencies, which have facilitated processing of over 865.05 crore authentication and 246.96 crore e-KYC requests by 15 Aug 2017. UIDAI is processing 2.6 crore authentications requests per day on a monthly average basis, with peak loads at 6 crore transactions per day. The Committee advised UIDAI to prepare for increase in authentication load, in phases. In the first phase, the Committee suggested to enhance the existing authentication transaction capacity of 10 crore per day to 40 crore/day in the coming three months, and to 120 crore/day in a period of next 10 months.
7. The committee was informed that UIDAI communicates Aadhaar number and demographic details to the residents through Aadhaar letter. UIDAI uses Ordinary

mail services of India Post, and till March 2017, UIDAI had printed 114.5 Crore Aadhaar letters (this includes 4.11 Crore letters sent by Speed Post in the initial days).

8. The committee was apprised of Grievance handling system of UIDAI, wherein on an average 1.5 lakh- 2 lakh calls and 2,500-3,000 emails are handled per day.
9. The committee acknowledged that Aadhaar is an important tool for the Government to achieve clean and good governance. This is evident from the fact that Aadhaar is required as an identity document by over 220 schemes, notified through over 137 notifications, by over 37 Ministries/Departments, as on 15th August 2017. Also, Aadhaar is increasingly being used by the government to transfer cash benefits directly to the beneficiaries' accounts as evident from the transaction volumes, wherein over Rs. 62,635 crore have been paid across 228.04 crore successful transactions, by 15th August 2017.
10. The committee acknowledged that Aadhaar is gaining popularity among the masses for doing financial transactions, in line with the goals of the Government and Reserve Banks of India for promoting financial inclusion and digital payments. New Aadhaar based payment systems like Aadhaar Payment Bridge (APB), Aadhaar Enabled Payment System (AEPS), Aadhaar Pay, and Pay to Aadhaar, have achieved critical volumes, and are driven now by users. Meanwhile, banks have been working extensively to empower Aadhaar holders by enabling Aadhaar Pay and Pay to Aadhaar in their systems and increasing presence of Aadhaar enabled devices in the field.
11. **Physical Security-** UIDAI informed that Security of Aadhaar data is paramount to UIDAI, and the Authority has taken several steps to ensure the same. UIDAI's CIDR facilities, Information Assets, Logistics Infrastructure and Dependencies installed at UIDAI locations, have been declared as Protected System, to accord highest security. The Committee members praised the security features and upkeep of Data Centre, during the visit. The committee acknowledged the elaborate physical security systems put in place, like manning by armed CISF men, entry restrictions, access through biometrics devices, and monitoring of the complete area by motion sensitive cameras connected to the Building Management System Unit. Further, UIDAI ensures data security through three concurrent aspects viz technology design, processes, and law.
12. **Data protection and privacy by design-** Aadhaar is designed on the principles of Minimal Data, Optimal Ignorance, and Federated Database, which will prevent UIDAI, Government or for that matter any Department or Agency, to track and profile any Individual. Minimum data is collected by UIDAI which is used only for Aadhaar generation and providing Authentication services. UIDAI, while providing identity Authentication service, only informs the requesting agency whether the particular Aadhaar number and provided biometric is matching or not matching. UIDAI only knows that a resident's identity is authenticated by a particular agency at a particular time, as it never asks for the purpose and location of transaction, and hence, no profiling of the person is possible. The Demographic and core Biometric data is stored in different databases and is uniquely identified through Reference ID (federated database structure). Besides, Aadhaar database is not linked with any other Govt/State/Private information system.
13. **Sharing of Data-** As per Section 29 and 33 of Aadhaar Act, no Aadhaar data (Aadhaar number and demographic details), can be shared by any individual or entity, with any individual or entity, without the consent of the resident, for that particular purpose. The shared data can be used for that particular purpose only. Similarly, the Aadhaar number of an individual shall not be published, displayed, or posted

publicly by any person, or entity, or agency. Biometric details can never be shared with anyone even with the consent of the individuals, except in case of National Security with the approval of a Committee headed by the Cabinet Secretary.

14. **Data Security and Privacy safeguarded by law**- Aadhaar Act, 2016, has ensured that all technological and organizational measures are in place to ensure the confidentiality and privacy of resident data. Specific provisions in the Act, ensuring security of data, are presented in Annexure 4. The Aadhaar Act 2016 (Chapters VI & VII) read together with Aadhaar (Data Security) Regulations, 2016 (No. 4 of 2016) pursuant to clause (p) of sub-section 2 of section 54 of the Aadhaar Act 2016, and Aadhaar (Sharing of Information) Regulations, 2016 (No. 5 of 2016) pursuant to sub section 1 and sub clause (o) of sub section (2) of Section 54, read with sub clause (k) of sub section (2) of section 23, and sub sections (2)& (4) of Section 29 of the Aadhaar Act 2016, provides several safeguards in the form of security and confidentiality of information, restrictions on sharing information, disclosure of certain information, and offences and penalties for breach of the Act or regulations.
15. **Data Security by Technology Infrastructure**- Committee was informed that UIDAI has put in best practices and technology such as firewalls, Intrusion Prevention Systems, zoning and access control, centralized security policy management, audits, and 24x7 monitoring through Security Operations Centre (SOC) and Network Operation Centre (NOC). UIDAI is ISO 27001: 2013 standard compliant, that defines security protocols and access protocols to ensure the safety of data. The steps taken to ensure data security in CIDR, are presented in Annexure 5.
16. UIDAI has also put in place, a comprehensive framework for protection and security of residents' data, and ensuring maximum accountability and transparency in the entire process of collection and use of data. The details of security provisioned in enrolment and use of Aadhaar (authentication system) are presented in Annexure 6.
17. **Biometric locking**- UIDAI provides biometric lock facility to all the Aadhaar number holders using which Aadhaar number holders may lock their biometrics and may unlock when required. Residents can conveniently lock/unlock their biometrics using web services or mobile m-aadhaar application.
18. UIDAI is working on other security features like Registered Biometric Devices wherein each biometric device will be uniquely identifiable, traceable, and biometric captured by this device will be encrypted at source; Issuing virtual ID and Aadhaar tokens and secure USB based ECMP client, detailed further in Annexure 7.
19. UIDAI informed the committee that it continuously keeps scanning the environment and assessing need for new additional security initiatives. A couple of such initiatives mentioned below, were briefed to the committee, which are presented in Annexure 7.
20. The nine judge bench of the Hon'ble Supreme Court in the matter whether the Right to Privacy is a Fundamental Right, has not commented on the Aadhaar Act or the usage of Aadhaar in any other law. Therefore, the usage of Aadhaar will continue to be governed by the provisions of the Aadhaar Act. Validity of Aadhaar Act will now be heard before the three judge bench of the Hon'ble Supreme Court before which Government will present its case of Aadhaar Act being fully compliant on the touch-stone of Privacy as Fundamental Right as per the verdict of the Nine Judge Bench.
21. **UID as a net positive scheme**- The good performance and success of UID scheme, is a well known fact. It was very informative and eye opening to know the performance and achievements of the project, in detail. Overall, the Committee is satisfied by the performance of UIDAI, and it clearly emerges as a net positive scheme (details in Annexure 3). Given the scale of the project, touching lives of all

Indian residents, and the fact that it is the largest biometric project in the world, the progress of the project is commendable. Touching more than 117 crore people in a span of 8 years, is a great feat for the UIDAI team, and that too at a cost of less than Rs 80 per Aadhaar, including all the services that have been rendered till date.

22. **Justification for continuation of scheme-** The Committee concurs with the proposal of UIDAI that, work of UIDAI on giving Aadhaar numbers to the residents of India, and offering Aadhaar updation and authentication services, is a work in perpetuity. UIDAI needs to continue its operations for providing Aadhaar numbers to new-born, provide updation services for all, including mandatory updates for children at the age of 5 years and 15 years, provide authentication services, and provide Aadhaar related services for financial inclusion and banking. In addition, the scheme needs to continue to act as a tool for good governance, and facilitate direct benefit transfer to the intended beneficiaries, so that it could further prevent leakages and save money (details in **Annexure 8**). Further, Aadhaar Act was passed and UIDAI was notified as an Authority, on 12 July 2016. The UIDAI has been given responsibilities under the Act to carry out these essential activities, and is a work in perpetuity.

4. Suggestions and recommendations of the Committee

With the above details, it is clear that the UID scheme has offered many economic and social benefits to the country, and clearly emerges as a NET POSITIVE scheme, and hence has full justifications to be continued. The committee has some suggestions for UIDAI to consider in its future plans :

1. The committee feels that technology infrastructure upgradation with time, is the most important thing for UIDAI. The committee observed that the IT infrastructure at CIDR may need replacement after it has lived its life, and increased usage will require more processing and storage capacity. Hence, UIDAI must consciously and strategically plan to maintain inventory of active in-service equipment of latest technology.
2. UIDAI must immediately focus on enhancing its Authentication capacity. UIDAI informed the Committee members that, it is processing a RFP to enhance authentication capacity of UIDAI to 40 Crore authentications per day. The committee feels that UIDAI must very shortly prepare to enhance it to nearly 120 crore per day.
3. About Aadhaar enrolments, the committee believes that it is time for UIDAI to focus on providing Authentication services and updation of Aadhaar, besides Aadhaar enrolment.
4. The committee finds a need to strengthen the grievance handling mechanism, and suggested that UIDAI should set benchmarks on grievance resolution timelines, and build escalation matrix. Considering the fast changing requirements of Aadhaar and its increased footprint, Aadhaar grievance handling mechanism will gain importance, and hence UIDAI should move towards new automated systems like AI based systems, chat bots, etc for grievance handling.
5. The committee observed that although UIDAI has put elaborate security system in place, there is a need to continuously strengthen it in view of new threats. The committee also observed that entities that are collecting Aadhaar or doing Aadhaar Authentication are to be made more secure. Their issues gets reported as UIDAI issues, and hence there is a need for awareness campaign on two aspectsfirstly, making the agencies aware of the security requirements of UIDAI, to avoid such breaches, and secondly, informing the general public about the responsibility of Aadhaar agencies, on security of their data.

3. Acknowledgments

The committee wishes to put on record, its sincere appreciation for the timely inputs provided by the UIDAI officials. These details were consolidated and shared with the members in the shortest possible time. Whenever any clarification was sought by any member, the same was provided immediately. Many senior officers personally participated in both the meetings. The committee appreciates this support, including the commitment shown by the senior leadership UIDAI. Committee could not have completed this exhaustive review, without such excellent support.

Chairman would like to record his personal appreciation to both members of the committee. They are loaded with work, as leaders of two of the leading National Institutions. They are also busy with several other commitments, which come their way due to their expertise and extensive experience. In spite of their tight schedule, they found and spent quality time for this important task, and attended meetings on dates which were imposed on them. Their contribution is gratefully acknowledged.

6. The Committee appreciated UIDAI's initiative and consciousness towards privacy at every step, by narrowly tailoring the provisions of the law, and ensuring that the there is informed consent, and purpose limitation, as far as sensitive personal information is concerned. The committee feels that though UIDAI systems, processes and structure are carefully designed and applied, these are not publicized widely, giving opportunity to the critics to spread misinformation and create misconceptions about Aadhaar. Hence, UIDAI should proactively engage in awareness campaign on UIDAI security systems.
7. Aadhaar number sharing and seeding in many databases can potentially create data linking issues. Committee appreciated the work UIDAI has begun for tokenization and virtualization of the ID to address this issue. Committee is in full support of this effort and suggests implementing it quickly.
8. The Committee feels that third party authentication failure and the related denial of services (not releasing ration, for example) is the sole responsibility of the User Departments and not of UIDAI.
9. The committee observed that UIDAI is dependent on Government for its finances, and its revenue is deposited in CFI. The UIDAI may consider becoming financially self sufficient. Presently, every year UIDAI requests the Government for appropriate budgetary support. It has been observed that budgetary support has been drastically reduced during the last two years. This will seriously impact functioning of UIDAI in short as well as long run.

   Therefore, quantum of budgetary support had to be determined on a rational basis. For every service, appropriate cost may be determined by the Authority following a transparent and objective process, and this should be recoverable from the users of the service. If the Government wants to subsidize any of the services, may provide appropriate subsidy through budgetary support, and to that extent lesser charges may be recovered from the users. This is a standard process followed in the other regulatory sectors such as Electric supply where tariffs are reduced by subsidies. If budgetary support is determined in this manner, UIDAI can not only be self sufficient, but also be held accountable by users as well as the government. Based on the above, appropriate amendments in Aadhaar Act may be carried out accordingly.

Overall, the committee believes that the project has helped in giving a dignified life to individuals. Considering the strong de-duplicating features of Aadhaar, it is rightfully being used for weeding out bogus, duplicates, fakes, and for uniquely identifying individuals for delivery of benefits, services, and for tax administration. UID Scheme, in this sense, is a transformational homegrown IT project, and an important platform to improve the efficiency and transparency of various e-governance initiatives in the areas of food security, jobs, health, taxation, etc. The various arguments put forward by critic, objecting to the use of a single unique identifier across domains, for concerns of data security and compromising privacy of individuals, are untenable, as the Aadhaar Act, 2016 mandates most rigorous and strongest privacy protection provisions which are reflected in spirit and processes of UIDAI at all levels.

Hence, the UID Scheme with its net positive outcome, is recommended by the Committee to continue beyond 12th Five Year plan, i.e. March 2017. Committee further recommends that this scheme be regarded as work in perpetuity, in view of its increasing widespread use in multiple national activities.

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Annexure 1

Aadhaar Act, 2016

To give statutory standing to UIDAI, Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 ("Aadhaar Act 2016") was passed by the Parliament on 16 March 2016 and published in the official gazette on 26 March 2016. UIDAI was notified as an Authority on 12th July, 2016, and the Chairperson and members of the Authority were appointed on 12 September 2016. On the same Day all sections of Aadhaar Act, barring Section 21, were notified. Subsequently, following regulations were notified on 14 September 2016:

1. Unique Identification Authority of India (Transaction of Business at Meetings of the Authority) Regulations, 2016 (No. 1 of 2016)
2. Aadhaar (Enrolment and Update) Regulations, 2016 (No. 2 of 2016)
3. Aadhaar (Authentication) Regulations, 2016 (No. 3 of 2016)
4. Aadhaar (Data Security) Regulations, 2016 (No. 4 of 2016)
5. Aadhaar (Sharing of Information) Regulations, 2016 (No. 5 of 2016)

The powers and Functions of UIDAI as per Section 23 of Aadhaar Act, 2016

1. Define enrolment process for generation and assigning of Aadhaar numbers to individuals
2. Appointment of entities to operate the Central Identities Data Repository (CIDR)
3. Issue regulations pertaining to authentication of Aadhaar numbers
4. Issue regulations for maintaining and updating the information of individuals in the CIDR
5. Issue regulations on life cycle management of Aadhaar numbers
6. Specify the manner of use of Aadhaar numbers for the purposes of providing or availing of various subsidies, benefits, services for which Aadhaar numbers may be used
7. Through regulations, specify terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation thereof
8. Establish, operate and maintain the CIDR
9. Through regulations, specify sharing the information of Aadhaar number holders, subject to the provisions of this Act
10. Call for information and records, conduct inspections, inquiries and audit of the operations for the purposes of this Act of the CIDR, Registrars, enrolling agencies and other agencies appointed under this Act
11. Through regulations, specify various processes relating to data management, security protocols and other technology safeguards under this Act
12. Through regulations, specify the conditions and procedures for issuance of new Aadhaar number to existing Aadhaar number holder
13. Through regulations, levy and collect fees or authorize the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under this Act
14. Appoint such committees as may be necessary to assist the Authority in discharge of its functions for the purposes of this Act.
15. Promote research and development for advancement in biometrics and related areas, including usage of Aadhaar numbers through appropriate mechanisms.

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Annexure 2

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Synopsis of EFC approvals and Expenditures with Revised Cost Estimates*

Statement indicating approvals received and expenditure incurred upto18th July 2017
(Amount in crores)

Sl No	Component	Approvals						Expenditure	RCE	Balance Available
		SFC	EFC II	EFC III	EFC IV	EFC V	Total	Total (2009 - 2017)		
1	Technology Infrastructue									
1 (a)	Capital Cost	8.57	379.06	2267.3			2654.93	1634.78		1020.12
1 (b)	Operational Cost	0	0	1466.2			1466.15	508.17		957.98
2	UIDCC						0.00	0.00		
2 (a)	Capital Cost	0	4.00	1.87			5.87	0.00		5.87
2 (b)	Operational Cost	0	6.00	45.17			51.17	0.00		51.17
3	Support Infrastructure-operational costs :									
3 (a)	Logistics	0	208.44	247.60	1049.00		1505.04	1146.35		358.69
3 (b)	Aadhar Sampark Kendra	0	151.56	-117.62			33.94	71.76	67.00	29.18
3 (c)	Document Management System	0	0	363.90			863.90	221.89		142.01
3 (d)	Knowledge Management Portal	0	0	11.00			11.00	6.74		4.26
3 (e)	IEC	0	200.00	0			200.00	191.94		8.06
3 (f)	Testing,Training & Certification	0	0	49.32			49.32	1.12		48.20
3 (g)	Professional Services	13.38	95.94	204.56			313.88	126.68		187.20
3 (h)	Monitoring and Evaluation	0	0	132.00			132.00	10.15		121.85
4	Asshtance to Registrars-operational cost (Enrolment, ICT, Incentive to BPL+ enrollees and Updation cost)	0	1450.00	128.12	2090.00	1265.00	4933.12	3893.70		1039.42
4 (a)	Enrolment cost		500.00	500	1600.00	1265.00	3865.00	3708.45		156.55
4(b)	ICT Assistance and Capacity building in States		450.00	100			550.00	124.82		425.18
4(c)	Incentive to BPL+ Enrolees		500.00	-471.88			28.12	52.06		-23.94
4(d)	Updation cost				490.00		490.00	8.37		481.63

Statement indicating approvals received and expenditure incurred upto18th July 2017 Annexure 1 (Amount in crores)										
Sl No	Component	Approvals						Expenditure	RCE	Balance Available
		SFC	EFC II	EFC III	EFC IV	EFC V	Total	Total (2009 - 2017)		
5	Authentication Services-operational Cost	0	0	5.00			5.00	0.17		4.83
6	Aadhaar Enabled applications and Financial Indusion	0	1.22	498.78			500.00	54.47		445.53
7	Construction of Buildings and Data Centers-Capital cost	5.20	33.00	87.06	247.16		372.42	401.09	83.26	54.59
B	Recurring Expenditure									
	Establishment cost of UID Hqrs and ROs	120.16	493.79	401.56	50.00		1065.51	524.85		540.66
	Total	147.31	3023.01	5791.74	3436.16	1265.00	13663.22	8793.86	150.26	5019.62

*Revised Cost Estimate-

A) Rs 67 crore were approved in RCE by the Competent Authority in two tranches of Rs 15 crore and Rs 52 crore as on 17.09.2016 and 17.03.2016 respectively, as the approved EFC outlay fell short vis-à-vis contractual liabilities.

B) Rs 83.26 were approved in RCE by the Competent Authority in two tranches of Rs 63.25 crore and Rs 20.01 crore as on 16.04.2015 and 02.02.2017 respectively, as the approved EFC outlay fell short due to cost of land of HQ and DCs/Non DC buildings which was not taken into account at the time of Cabinet approvals, time over runs and due to addition of two additional floors in UIDAI HQ building under construction.

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Annexure 3 (B)

UID as a Net Positive Scheme

As per DBT Mission, UIDAI has helped the government save Rs57,029 crore upto 2016-17 by way of Aadhaar linkage in various schemes. The schemes include DBT (PAHAL), PDS, NSAP and MGNREGA.

Benefit accrued on account for DBT/ Aadhaar since 2014 till 31st March 2017

			Upto 2015-16	Upto 2016-17
1	Petroleum & Natural Gas	PAHAL	21,584 crore	29,769 crore
2	Food & Public Distribution	PDS	10,191 crore	14,000 crore
3	Rural Development	MGNREGS	3,000 crore	11,741 crore
		NSAP	249 crore	399 crore
4.	Others	Others	1,120 crore	1,120 crore
TOTAL			**36,144 crore**	**57,029 crore**

**(Source of Data : DBT Bharat Portal)*

Considering the fact that use of Aadhaar is helping the government with direct financial savings, which are expected to accrue on a regular basis in future, it is a clear winner for the government. In addition, integration of UIDAI in various governance initiatives has enabled the government to provide good and efficient governance to its people. Aadhaar has been linked with various applications, mentioned below, which have helped the government in bringing in more transparency in conduct of government business and enhancing ease of business that make a case for continuing UID Scheme beyond 12th Five Year Plan-

1. **Aadhaar Enabled Biometric Attendance System (AEBAS)** was launched in year 2015. As on 15 August 2017, the service is available at 662 organizations, to over 2.27 Lakh registered employees, operating at over 6000 active devices. It has been observed that due to AEBAS average presence in office has gone up thus filing gap in manpower requirements.
2. **Jeevan Pramaan**, which is a biometric authentication enabled 'Aadhaar-based Digital Life Certificate (DLC)' for pensioners, helps pensioners registered in the system to get 'life Certificate' needed for disbursement of pension, thus saving them from logistical hurdles in old age. As on 15th August 2017, with over 87 lakh registered users, about ~70 Lakhs pensioners have availed Authentication services of Aadhaar for *Jeevan Pramaan in the current year* so far.
3. **Thee-sign** solution uses the existing e-KYC authentication mechanism under Aadhaar to verify the identity & address of the resident/signer and seek an online electronic signature from the issuing Certifying Authority (CA). Thus, a common man is enabled with digital signature facility and saves her from time taking and costly way of obtaining Digital Signature Certificate from licensed CCA.
4. **DigiLocker** is a cloud based platform for issuance and verification of documents & certificates digitally, thus eliminating the use of physical documents. It is a reality for Digital India's vision of providing citizens with a shareable private space on a public cloud and making all documents/certificates available on this cloud, thus helping in paperless governance. As on 15th August 2017, over 78 lakh users have registered with Digi Locker, storing over 98.65 lakh documents.

5. **Mobile SIM issuance with e-KYC-** Aadhaar has not only benefited the government, but Telecom Service Providers (TSP) have benefited by using e-KYC whereby the process of acquiring new SIM card has becomes paperless and reduced turnaround time for activation of SIM cards. Supreme Court of India has also acknowledged the benefits and ordered the TSPs to link all active mobile connections with Aadhaar in a year's time.
6. **Pradhan Mantri Jan-DhanYojana(PMJDY)**which was launched in August, 2014 has helped in financial inclusion. Aadhaar is used as the primary KYC document for opening a PMJDY Account and for delivering benefits to targeted beneficiaries. Use of Aadhaar e-KYC has brought a significant degree of comfort and convenience to the residents. As on 31st May 2017, over 28.44 crore accounts have been opened under the scheme of which over 18.97 crore are linked to Aadhaar Number.
7. **Engagement of Bank Mitras** (Banking Correspondents, BCs) serve as the main instrument of delivery of financial services using Aadhaar Authentication, thus helping in providing banking access to people in remote areas. There are more than 3.25 lakh BCs in July 2017.
8. **Aadhaar in Securities Markets:** Securities Market Regulator SEBI issued circular on 22-01-2016 on KYC, allowing Aadhaar Based e-KYC (OTP based up to Rs. 50,000 investments) as accepted mode of KYC. In case investments are above Rs. 50,000, resident needs to do biometric authentication based e-KYC. This has enabled small investors to open account and do small investments in a paperless manner.
9. **Linking Universal Account Number (UAN) for EPFO** with Aadhaar will help to clean EPFO database and help in hassle-free claim settlement and payment of benefits. As of 15th August 2017, of the 11.84 crore Accounts, over 1.94 crore have been linked to Aadhaar.
10. **Acceptance of Aadhaar for issue of passport-**Ministry of External Affairs, since May 2015, accepts Aadhaar as one of the PoI/PoA document by performing e-KYC of the applicant at the designated PSK. Till March 2017, over 1.36 crore e-KYC transactions have been performed by MEA for passport applications.
11. **Use of Aadhaar authentication for e-verification of Income Tax Return-CBDT** has launched e-verification service for Income Tax Returns. One of the options provided to resident is e-verification of Income Tax Return using Aadhaar OTP authentication. This was further strengthened on 31 March 2017 with making Aadhaar mandatory under section 139AA of Finance Act 2017 for FY 2017-18. As on 15th August 2017, over 3.27 crore PAN holders have linked and got their Aadhaar verified with CBDT. So far, about 1.20 crore Income Tax Payees have used Aadhaar based verification this year.
12. **Aadhaar as an enabler in digital economy Aadhaar as an enabler in Digital cashless Economy -** In addition to above benefits, Aadhaar is proving to be a foundation stone in digital cashless economy being promoted by the government post de-monetization drive in November 2016. Aadhaar enabled Payment Systems, Bank Mitras and Aadhaar Pay applications as described below have yielded positive benefits to the society-
    A. **Aadhaar Enabled Payment System (AEPS)-** has enabled residents to carry out banking transactions over handheld devices (micro-ATMs) carried by Business Correspondents (BCs) in remote corners of the country. Micro-ATMs provide doorstep services using Aadhaar and fingerprint of the resident. Aadhaar enabled basic banking transactions facilitated by BCs include:-

        i. Balance Enquiry
        ii. Cash Withdrawal
        iii. Cash Deposit

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iv. Aadhaar to Aadhaar Funds Transfer

At present 130 banks are live on AEPS ON-US and 88 banks are on OFF-US (inter-operable). As on 15th August 2017 over 75.57 crore successful transactions have taken place using AEPS across the banks. Last six month's average is 6.64 crore transactions per month that are happening across 3.25 lakh micro-ATMs in the field.

After the demonetization, use of AEPS has increased significantly. From 9th November 2016 till 15th August 2017 over 50.25 crore AEPS transactions were done in the field.

B. **Aadhaar Pay is merchant version of AEPS-** The Application works on a low cost android phone with single finger bio-metric device. It enables merchant to take cashless payment from his customers. Customer is only required to give his Aadhaar number, name of the bank (from where the money is to be deducted) and his fingerprint for authentication. The cost of this finger bio-metric device is about Rs. 2000. It enables merchant to take cashless payment from his customers. Launched on 14th April 2017, it is targeted to deploy about 20 lakh devices by September 2017. As of 15th August 2017, over 66 banks have become live on this system.

C. **Pay to Aadhaar-**It is a facility available on UPI platform integrated in BHIM app. It enables Person-to-Person (P2P) remittance using Aadhaar number of the recipient as financial address. The receiving Aadhaar number should be linked with his/her Aadhaar number. Launched early this year, it has been deployed by over 49 banks and enables over 51.67 crore Aadhaar linked bank a/c's to start receiving money using Aadhaar as financial Address.

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Annexure 4

Data Security and Privacy as provisioned in Aadhaar Act, 2016

1. Section 8 (4) provides that the Authority shall respond to an authentication query with a positive, negative or any other appropriate response, sharing such identity information excluding any core biometric information.
2. Section 8(2) (b) states that a requesting entity shall ensure that the identity information of an individual is used only for submission to the Central Identities Data Repository for authentication.
3. Chapter VI provides for a detailed framework for protection of information ensuring security, confidentiality and privacy of the data and the same standards are imposed on agencies, consultants, advisors or other persons appointed or engaged for performing any function of the Authority under this Act (Section 28).
4. Section 29 categorically states that no core biometric information, collected or created under this Act, shall be—
   A. Shared with anyone for any reason whatsoever; or
   B. Used for any purpose other than generation of Aadhaar numbers and authentication under this Act.
5. Section 30 applies the rigours of the I.T. Act, 2000 and the rules thereunder, whereby, Biometric information is deemed to be Sensitive personal information.
6. Section 32 clarifies that the Authority shall not, either by itself or through any entity under its control, collect, keep or maintain any information about the purpose of authentication.
7. Section 33(2) provides disclosure in the interest of National Security, only upon a direction by an officer not less than the rank of a Joint Secretary, which is further reviewed by an Oversight Committee consisting of the Cabinet Secretary and the Secretaries to the Government of India in the Department of Legal Affairs and the Department of Electronics and Information Technology, before it takes effect.
8. Chapter VII lays down monetary penalties and imprisonment for unauthorized sharing of residents' identity information, failure to keep e-KYC data secure, failure to properly inform the residents about the use of their information, or failure to obtain their consent for authentication. The non-compliant individuals or entities may receive monetary penalty (up to one lakh rupees) and/or jail term (up to 3 years) which may vary depending upon the severity and impact of the violation. Some of the relevant sections on Penalties include:
   A. **Section 34:** Penalty for impersonation at time of enrolment.
   B. **Section 35:** Penalty for impersonation of Aadhaar number holder by changing demographic information or biometric information.
   C. **Section 36:** Penalty for impersonation for collecting information.
   D. **Section 37:** Penalty for disclosing identity information.
   E. **Section 38:** Penalty for unauthorized access to the Central Identities Data Repository.
   F. **Section 39:** Penalty for tampering with data in Central Identities Data Repository.
   G. **Section 40:** Penalty for unauthorized use by requesting entity.
   H. **Section 41:** Penalty for non-compliance with intimation requirements.
   I. **Section 42:** General Penalty.
   J. **Section 43:** Offences by Companies.
   K. **Section 44:** Act to apply for offence or contravention committed outside India.

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Annexure 5

Security of data in CIDR

The Central Identities Data Repository (CIDR) hosts the biometric data including encrypted enrolment packets, biometric template data and demographic data. UIDAI has followed a layered security approach to protect the sensitive information in CIDR. Following keys measures are taken in CIDR to protect the information.

1. **Robust Perimeter Security-** CIDR is divided into various zones based on risk and trust. These zones are protected by Firewalls and perimeter zones are additionally protected by Intrusion Prevention systems (IPS) with clearly outlined rules based on business needs. The perimeter is continuously monitored by the Security Operations Centre (SOC) for security threats.
2. **Securing sensitive data in CIDR (Biometric and demographic)-** The biometric and demographic data is hosted in highly restricted zones within the CIDR (production zone). These zone are further restricted through firewalls within the CIDR and only necessary applications interact with these zones which are based on strict approvals.
3. **Storage of sensitive data in federated manner-** Biometric and Demographic data is stored in federated manner. Both biometric and demographic data cannot be found in a single database hence increasing the level of security of the information.
4. **Anonymization of data through reference Ids-** The biometric data stored in various zones is only referenced through reference IDs and not through Aadhaar number. This increases the level of security multi-fold as to misuse the biometric data, one needs access to the respective Aadhaar number as well which is kept in a separate zone and strictly access controlled.
5. **Encryption-** All data is stored in the various databases in an encrypted format and the keys for encryption are managed using HSM devices.
6. **API based interaction-** Interaction with the various databases within CIDR is through APIs only hence restricting the level of access to various databases
7. **Access control-** Access to the various infrastructures within CIDR by authorized personnel is highly restricted based on need and role. The access is periodically monitored by the administration.
8. **Identity and Access Management-** Identity and Access Management solution is implemented to control access to the servers and apply appropriate policies for access.
9. **Anti-virus and HIPS for the servers in CIDR-** Anti-virus and HIPS solution is deployed for all the servers in CIDR and the signatures are updated on daily/periodic basis as per the requirement.
10. **Continuous security monitoring through SIEM solution** (Security Information and Event Management) in Security Operations Centre- Security Analytics is implemented in CIDR to monitor real time security threats. All logs are monitored in SOC (Security Operations Centre) in the Headquarters for real time security threats.
11. **Periodic vulnerability assessments-** Quarterly vulnerability assessments are conducted to ensure Periodic vulnerability assessments are conducted.
12. **Technology developments-** Various security technology developments are continuously being monitored and UIDAI endeavours to deploy the best security technology solutions.

Organizational Security Measures taken by UIDAI

In addition to above, security measures at organizational level have been adopted as mentioned below which build a secure technology system-

1. **ISO27001:2013 certification-** UIDAI CIDR is ISO27001:2013 certified since 2015 and goes through yearly surveillance audits from STQC.
2. **Information Security Policy-** UIDAI has an Information security policy following the ISO27001:2013 standard.
3. **Robust Security Organization-** Assistant Director General (Information Security) has been designated as the Chief Information Security officer to drive Information security measures in UIDAI.
4. **Security monitoring agency-** GRCP-SP (Governance, Risk, Compliance and Performance Service Provider) has been appointed to perform periodic monitoring of the security of internal and external ecosystem.
5. **Third party security compliance-**UIDAI ensures that conditions in various contracts signed with the ecosystem partners include compliance to Information security policy of UIDAI. Periodic assessments are conducted for the ecosystem partners to ensure compliance on the Information Security policy.
6. As per UIDAI's CIDR facilities, Information Assets, Logistics and Infrastructure and Dependencies installed at UIDAI has been classified as Protected System under section 70 (1) of the Information Technology Act, 2000.

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Annexure 6

Data Security in collection and use of Aadhaar data

1. **Security of Enrolment system-** The Enrolment Client application is a desktop application provided by UIDAI which works in offline mode, and has all the features necessary to capture resident demographic details, do local validation, do local transliteration, capture biometric data, check biometric data quality and capture necessary audit details such as operator biometrics, location and time. Enrolment client software, also has built-in security features such as, in-memory data encryption, encrypted data storage, exports etc. The enrolment software is connected to CIDR via an authenticated and secured channel, each machine is registered in the system and uniquely defined, all operators and supervisors are Aadhaar trained and certified, they are registered with UIDAI and need to authenticate before processing enrolment. The biometric devices used for biometric data capture are connected via UIDAI provided "device manager" software embedded in the enrolment system. Every enrolment packet is biometrically signed by the operator ensuring traceability and non-repudiation. Further, every packet is reviewed and signed by a supervisor for data quality (review audits are captured electronically) which means every enrolment is traceable in terms of "who", "when", "where", "which agency", "which registrar", "who reviewed it", etc. Every packet is tamper proof and encrypted through PKI-2048 bit encryption at the time of capture. Encrypted Packets are securely uploaded to CIDR using customized software through registered upload stations initiated after a two factor authentication. These packets are "never" decrypted in transit.
2. **Security of Authentication System-** Aadhaar authentication system is also designed to ensure data security and privacy as ensued in the Aadhaar Act. The access to CIDR is available to authorized AUAs and KUAs through ASAs only which have established secured network connectivity with CIDR, for the purpose of authentication, in compliance with the Regulations, specifications, standards and technology architecture as prescribed by UIDAI. The information and data collected during authentication is immediately packaged and encrypted into Personal Identity (PID) block, as per the specifications laid down by the Authority, before any transmission. Each authentication transaction is traceable as a complete audit trail with device information and AUA/KUA/ASA time stamp is mandatorily maintained. UIDAI accepts only those authentication requests which are digitally signed by AUA/KUA/ASA. These agencies are also mandated to maintain information of all their authentication devices (send this information as part of authentication request to UIDAI), and transaction logs as prescribed by Aadhaar Authentication Regulations. UIDAI provides instant e-mail alert notifications to Aadhaar number holder for biometric authentication with details such as time of authentication, mode of authentication, the name of AUA through which authentication has happened and contact details of UIDAI. Therefore, in case of any issues with the transaction, Aadhaar number holder may approach UIDAI or the AUA. For better security, UIDAI also enables multi factor authentication to users.

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Annexure 7

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New Security initiatives by UIDAI

1. **Secure ECMP Client:** UIDAI, in consultation with DRDO, is in the process of developing a secure USB based ECMP client for enrolment. A demonstration of the system was given to the Committee and the proposed solution is commendably secure and will further enhance the security of enrolment process. Committee suggests UIDAI to launch it at an earliest.
2. **Enrolment Centers with trusted partners:** It was informed that UIDAI has initiated a process of providing enrolment and update services by trusted partners only and hence it is in the process of locating Permanent Enrolment Centers at Post Offices, Nationalized Banks and Government offices to further enhance the security of enrolment process. Private operators involved in the enrolment process will be phased out in due course of time.
3. **Registered Devices:** UIDAI is in the process of introducing the concept of Registered Biometric Devices wherein each device will be uniquely identifiable, traceable, and biometrics captured by these devices will be encrypted at source. This will further enhance security at source of biometric data capturing. The key features of Registered Devices include
    a. **Device Identification-** Every biometric device will have a unique identifier allowing traceability, analytics and fraud management
    b. **Eliminating use of stored biometrics-** Biometric data is signed within the device using the provider key to ensure it is indeed captured live.
    c. **A standardized and certified Registered Device Service** is to be provided by the device providers. This RD Service will encapsulate the biometric capture, signature & encryption of biometrics all within it. The RD Service forms the encrypted PID block before returning to the host application through local TCP/IP port.
4. **Virtual ID and Aadhaar token:** Aadhaar number sharing and seeding in many databases can potentially create data linking issues. Committee reviewed the work UIDAI has begun for tokenization and virtualization of the ID to address this issue. Committee is in full support of this effort.
5. **Secure QR Code:** UIDAI is in the process of providing secure QR code with signed information in Aadhaar letters and e-Aadhaar. This QR code would contain photograph and demographic information of the resident and the same can be verified using UIDAI provided scanner application for authenticity. The scanner application will be offered on Windows and Android platform to begin with. This feature will enable offline verification of Aadhaar details by user agencies and will help the user agencies in remote areas to verify Aadhaar information offline.
6. **Empanelment of Audit Agencies for Security Audit of AUAs/Sub-AUAs:** UIDAI has a long list of service providers and having an extensive ecosystem of audit agencies to ensure compliance of Aadhaar Act is very essential for UIDAI at this stage. UIDAI is in the process of empanelling various Audit Agencies to conduct security audit of AUAs/Sub-AUAs of Aadhaar ecosystem. This would ensure that various security policies and guidelines issued by UIDAI are strictly adhered to by these agencies.
7. **Formation of Security Review Committee:** UIDAI has formed a Security Review Committee, consisting of eminent members from Academia such as Indian Institute of Science, Indian Institute of Technology; Government agencies such as National Cyber Security Council, Defense Research and Development Organization etc., to provide expert guidance and support concerning Cyber Security matters for UIDAI internal and external ecosystem on an ongoing basis.

8. **Empanelment of Certification Agencies to certify Auth applications of AUAs/Sub-AUAs:** UIDAI is in the process of empanelling various certification agencies to certify various applications developed by AUAs/Sub-AUAs of Aadhaar ecosystem. This would ensure that various security policies and guidelines issued by UIDAI are strictly adhered to. Once certified, the list of certified applications will be available on UIDAI website for the information of the residents.

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Annexure 8

Justification for Continuation of scheme

The work of UIDAI on giving Aadhaar numbers to the residents of India, and offering Aadhaar updation services and digital authentication services, is a work in perpetuity. UIDAI needs to continue its operations for the following reasons:

1. To continue allocating Aadhaar number to new-borns (nearly 2 Cr children are born every year) and to provide for mandatory biometric updates to similar number of children who become eligible for biometric updates at the age of 5 and 15 years of age.

2. To continue providing for Update services to residents who need to update their Aadhaar details due to life event changes like marriage, movement to new locations, etc. This is also essential for UIDAI to ensure that Aadhaar data of the residents stored in the CIDR is accurate and up-to-date for enabling Aadhaar authentication for various Government and Non-Government Services like Subsidy Benefits, Pensions, Scholarships, Social Benefits, Banking, Insurance, Taxation, Education, Employment, Healthcare, etc.

3. To continue providing authentication services to various Central and State government Ministries which are using or may decide to use Aadhaar, as per Section 7 of Chapter III of the Aadhaar Act, for the purpose of establishing identity of an individual as a condition for receipt of a subsidy, benefit, or service for which the expenditure is incurred from, or the receipt therefrom forms part of, the Consolidated Fund of India, require that such individual undergo authentication, or furnish proof of possession of Aadhaar number, or in the case of an individual to whom no Aadhaar number has been assigned, such individual makes an application for enrolment.

4. To continue facilitating Aadhaar related services for financial inclusion and banking where, Aadhaar serves as a financial address of the resident and funds can be transferred to Aadhaar linked account of a resident through Aadhaar Payment Bridge (APB) and Aadhaar Enabled Payment System (AEPS) operated by National Payments Corporation of India.

5. To continue providing digital authentication and eKYC services to various government and private agencies through its Authentication ecosystem comprising of AUA/KUA and ASA.

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Source: http://www.financialexpress.com/india-news/munnabhai-mbbs-style-entrance-exams-exposed-by-delhi-police/547628/

'Munnabhai MBBS' style entrance exams exposed by Delhi police

Teams of Delhi Police Crime Branch have conducted multiple raids in different parts of Delhi, Bengaluru and other cities to expose 'Munnabhai MBBS' style entrance exams.

By: FE Online | New Delhi | Published: February 12, 2017 11:18 AM

Teams of Delhi Police Crime Branch have conducted multiple raids in different parts of Delhi, Bengaluru and other cities to expose 'Munnabhai MBBS' style entrance exams. According to the police, they caught an 'inter-state racket' who have been accused of charging candidates between Rs. 5 and Rs. 10 lakhs for taking exams on their behalf.

Police started its investigation after finding out that eight people allegedly took the national-level Post Graduate Medical Entrance Examination held last year in November, on behalf of someone else. A team of Central Rage started working on the case after it was registered under IPC sections 419 (impersonation), 420 (cheating) and 34 (criminal intimidation) at the Crime Branch police station on February 2 for using dummy candidates for the exams.

"Police received information on January 20 that some people tried to crack the online medical entrance examination by impersonating the aspirants. After conducting an initial probe, teams were formed to dig deeper and start conducting raids," police sources said. Joint Commissioner of Police (Crime Branch) Ravindra Singh Yadav was not available for comment, saying it is a "confidential matter"

The raids were conducted by a team of three-inspectors under the supervision of an ACP-rank officer. The investigating team found out that the impersonators, too, are students of various medical colleges.

In 2012, a similar case was reported when the Crime Branch got hold of a racket involving entrance examinations to the postgraduate course at AIIMS. Culprits used smart phones to scan the question papers and used to pass on answers using Bluetooth technology.

In 2017, two men were held in Gurugram for for appearing on behalf of an aspirant in an exam to recruit primary teachers.

http://www.financialexpress.com/india-news/munnabhai-mbbs-style-entrance-exams-exposed-by-delhi-police/547628/

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Source: http://www.india.com/education/up-board-exam-2017-munnai-bhai-style-impersonators-caught-while-appearing-for-two-students-1968859/

UP Board Exam 2017: Munna Bhai style impersonators caught while appearing for two students

Updated: March 28, 2017 3:54 PM IST

By Urvashi Kapoor

UP Board English Exam 2017 for class 10th was cancelled at two centers of Mathura on March 27. The exam was cancelled after mass cheating was reported from the centers. The authorities of the board blacklisted the centers where the cheating took place. On the other hand, in Mainpuri, two "Munna Bhai" style impersonators were caught appearing for the exam for two other students.

After these incidents of rampant cheating, the hollow claims of the Education Minister of Uttar Pradesh have been exposed. UP Education Minister Dinesh Sharma, has been always giving statements denying cheating or mass copying. Indra Prakash Singh Solanki, the District Inspector of School (DIOS) Mathura, said that the English exam at Mathura Center was cancelled at Bachwan Bihari Inter College, Sehi and Sardar Patel Inter College, Shergarh.

6 students out of the 1000 appearing for the English Exam in the centers were caught cheating. The alleged were cheating through guide pages. In Mainpuri, the authorities caught two

impersonators, Pushpendra Kumar and Sivek Kumar, while they were found appearing in the name of two different students Deshraj Singh and Ravi Kumar, at DAV Inter College. Both the accused have been booked under charges of impersonation, cheating and fraud.

http://www.india.com/education/up-board-exam-2017-munnai-bhai-style-impersonators-caught-while-appearing-for-two-students-1968859/

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MP gives Law exam in Munnabhai style!

Two Bihar college principals were arrested for asking a youth to ghost write the law degree examination for jailed RJD MP Shahbuddin in return of Rs. 20,000.

Updated: Dec 08, 2006 19:41 IST

Two Bihar college principals have been arrested for allegedly asking a youth to ghost write the law degree examination last year on behalf of jailed Rashtriya Janta Dal MP Shahbuddin.

Jayant Kumar, principal of Muzaffarpur's S.K. Memorial Silver Jubilee Law College, and Tauheed Alam, of RDS College in the same district, were arrested on Wednesday for their alleged role in facilitating a youth to ghost write for the MP.

Their anticipatory bail petition was rejected by the Patna High Court.

Muzaffarpur superintendent of police Ratan Sanjay said that both principals were arrested after a probe into the case found them guilty. "Police will interrogate them before they are sent to jail Thursday," he said.

However, both Alam and Singh have denied their involvement.

Shahabuddin had last year appeared for the law examination conducted by Bihar University at Muzaffarpur despite a nationwide

alert for his arrest. It had shocked the top brass of the state administration.

He appeared for the examination held in RDS College as a candidate of S.K. Memorial Silver Jubilee Law College.

A police complaint was lodged soon after the incident against Shahabuddin, the two principals and other college staff.

Firoz Alam, the young man who allegedly ghost wrote the examinations, said in an affidavit in May in the court of the chief judicial magistrate that he had written the LLB Part II examination for Shahabuddin following a promise that he would be paid Rs. 20,000.

He said Tauhid Alam had approached him to impersonate Shahabuddin for the examination.

The police investigation pointed to the close proximity of the two principals with Shahabuddin.

Shahabuddin, currently lodged in Siwan jail, was arrested last year following a nation-wide alert after he was on the run, evading arrest in a number of criminal cases.

He is an accused in nearly 40 cases of murder, kidnapping, extortion and bank robbery. He had fought and won the 2004 Lok Sabha election from jail.